**Elizabeth Board of Education** 

**Internal Review** 

**Report of Special Counsel** 

February 9, 2012

### TABLE OF CONTENTS

EXECUTIVE	SUMMARY 1 - 7	
INTRODUCT	ION 1	
I POLITICA	AL CONTEXT 5	
II EDUCAT	IONAL PROGRESS18	
1.	Selection of School Board and Superintendent Muñoz to Participate in Broad Foundation Training Programs	
2.	Consistent and Comprehensive Improvement in Standardized Test Scores	
3.	Collaboration with Merck Institute for Science Education	
4.	Restructuring and Reconfiguring of District's Elementary Schools	
5.	Decentralization and Reorganization of District's High School Program	
	a. Elizabeth High School	
	b. Alexander Hamilton Preparatory Academy 25	
	c. John E. Dwyer Technology Academy 26	
	d. Thomas Jefferson Arts Academy	
	e. Admiral William F. Halsey, Jr. Leadership Academy	
	f. Thomas A. Edison Career and Technical Academy 28	
Results of	f High School Reorganization	
6.	Panasonic Foundation	
7.	National Blue Ribbon Schools 34	
8.	Pre-School 36	

9.	Perfect Score Awards	
10.	Other Awards and Recognitions 3	
11.	School Uniform Initiative 4	
III EMPLO	YEE INTERVIEWS 4	
IV NEPOTI	SM	
1.	Nepotism Regulation and Policy 52	
2.	The Board's Nepotism Policy 54	
3.	No Violation of Regulation or Policy 59	
	a. Relatives of Current Board Members 5	
	b. Relatives of Former Members Who Sat on the Board between 2009 and 2011	
4.	Abstentions 6	
5.	Employees Were Qualified	
6.	Salaries of Relatives of Board Members	
7.	Department of Education Investigation	
8.	Doctrine of Necessity 64	
9.	Olga Fajardo's Employment Complies with Board and State Policy	
10.	Conclusion 66	
V THE STA	R LEDGER SOURCES	
1.	Ethical Guidelines for Journalists 70	
2.	The Sources	
VI RECOMMENDATIONS		
VIII CONCLUCION		

### EXHIBITS

EXHIBIT A:	The Star Ledger Editorial dated April 1, 2006 entitled "Looks like payback"
EXHIBIT B:	Letter from Superintendent Pablo Muñoz to Secretary Margaret Spellings dated September 25, 2006
EXHIBIT C:	Letter from Superintendent Pablo Muñoz to Margaret Spellings dated September 29, 2006
EXHIBIT D:	Letter from Mayor Christian Bollwage to Honorable Jon Corzine dated February 21, 2006
EXHIBIT E:	Elizabeth Board of Education Timeline of Audits dated 2005 to 2010
EXHIBIT F:	Letter from Jimmy de la Torre, Ph.D. to Justice Gary S. Stein dated January 26, 2012; Curriculum Vitae of Jimmy de la Torre
EXHIBIT G:	The Star Ledger Editorial Board dated May 23, 2011 entitled "Needed: Criminal Investigation in Elizabeth"
EXHIBIT H:	Invitation to Cocktail Reception honoring Councilman Frank Cuesta dated January 25, 2006
EXHIBIT I:	Invitation to Reception honoring Councilman Frank J. Cuesta dated February 5, 2009
EXHIBIT J:	Letter from Frank J. Cuesta to Students and

Parents dated September 11, 2007

#### **Elizabeth Board of Education**

#### **Internal Review**

#### **Report of Special Counsel**

#### **EXECUTIVE SUMMARY**

This Executive Summary is intended to provide an overview of the findings of my Report to the Elizabeth Board of Education dated February 9, 2012. The Elizabeth Board of Education adopted a resolution on June 30, 2011 authorizing the conduct of this internal review and the preparation of this Report.

The Report considers a series of newspaper stories, editorials and op-ed pieces in the Star Ledger commencing in May 2011 that alleged that members of the Elizabeth Board of Education consistently pressured employees of the Board to contribute to Board election campaigns and to events intended to raise campaign funds.

After a comprehensive review of the Star Ledger's allegations, I have concluded, based on my independent investigation, that the Star Ledger's allegations are inaccurate, unfair and unsubstantiated.

Significantly, the Star Ledger, knowingly or unknowingly, improperly failed to disclose that the sources relied on for those allegations were biased, all of those sources being former employees who have had well known adversarial relationships with the Board or with Superintendent Pablo Muñoz, and/or have been politically allied with Senator Raymond Lesniak and/or Mayor J. Christian Bollwage.

Moreover, the Star Ledger's articles were misleading because they omitted any discussion of the bitter political hostility toward the Board generated by Senator Lesniak and Mayor Bollwage over the past decade. The Report summarizes that adversarial relationship and explains why past and present members of the Board were required to maintain an effective political organization to defend themselves against attacks by the Senator and the Mayor.

Most importantly, the Star Ledger articles do not attempt to describe the extraordinary educational progress that the Elizabeth School Board, under the leadership of Superintendent Muñoz, has achieved over the past six years. That educational progress ranks the Elizabeth school system near the very top of comparable school districts in New Jersey and demonstrates that the educational mission of the Board is being successfully executed and has not been politicized.

In view of the distorted and unfair portrayal of the Elizabeth school system by the series of articles published by the Star Ledger, the Board justifiably was concerned that the parents of the school Districts' more than 23,000 students could have diminished trust in the District's educational mission. Although the investigation that produced this Report was protracted and

costly, the District's well-earned reputation for educational excellence and innovation clearly deserves vindication.

#### **Political Context**

The Report describes in detail the adversarial relationship that has existed during the past decade between the political organizations led by Senator Lesniak and Mayor Bollwage, on the one hand, and the Board of Education. The Report describes the lawsuit filed by the Board against the City when the City attempted to sell a piece of property, needed by the Board for a new vocational high school, to a political supporter of the Mayor for a price far below the market value of the property. In response to the lawsuit, the City conceded that it could not proceed with the sale of the property. But in retaliation, Senator Lesniak requested that the State Department of Education appoint a monitor to oversee the finances of the school district. The Star Ledger criticized Senator Lesniak in an April 1, 2006 editorial entitled "Looks Like Payback", which stated as follows:

What we fear is that this is not about dealing with mismanagement of public funds. It's about payback. Lesniak seems to be out to punish the school board and by extension the taxpayers of Elizabeth. That's as indefensible as the original multimillion-dollar giveaway to the developer.

The Report also explains that the efforts of Senator Lesniak and his associates resulted in nine investigations and two audits of the Board during 2006 and 2007, and that no significant financial concerns were found to exist by the State Department of Education.

Harassment of the Board was joined in by Mayor Bollwage who wrote to Governor Corzine on February 21, 2006, a few weeks after the City was compelled to rescind the sale of the New Jersey Transit Property, requesting the Governor to consider a take-over of the Elizabeth School District by the State Department of Education.

The adversarial relationship also was demonstrated by hard-fought election campaigns for membership on the Board in 2007, 2008 and 2011. In none of those campaigns were the candidates supported by Senator Lesniak and Mayor Bollwage elected.

As recently as December 2011, Senator Lesniak demonstrated his continued antagonism to the Board by speaking at a meeting of an anti-Board organization called Education Watchdogs, urging the defeat of the incumbent School Board members and announcing to the membership that City Council member Frank Cuesta, a well-known political ally of Senator Lesniak and Mayor Bollwage, would be appointed as the next Superintendent of schools to replace the current Superintendent, Pablo Muñoz.

#### **Educational Progress**

The most important section of the Report deals with the educational progress of the Elizabeth school system during the past six years under Superintendent Muñoz.

The highlights of that progress include the following significant developments:

#### 1. <u>Test scores</u>

Scores achieved by Elizabeth school students on New Jersey standard tests for grades 3 through 8 and on the High School Proficiency Assessment test for grade 11 have improved significantly in language arts and mathematics in every year since 2005. Elizabeth school students also have improved their ranking in every grade in comparison to the 37 other school districts in the same economic category (DFG A). For example, in 2005, Elizabeth's grade 3 language arts ranking among all 38 DFG A Districts was 16th; in 2011 it was 8th. In 2005 Elizabeth's grade 3 mathematics ranking was 15th; in 2011 it was 6th. Similarly, in 2005, its grade 7 language arts ranking was 18th; in 2011 it was 9th. In 2005 Elizabeth's grade 7 mathematics ranking was 23rd; in 2011 it was 5th. Elizabeth's ranking in comparison to those other 37 districts in language arts and mathematics has improved in every year since 2005 for every grade for which the State has provided data.

In addition, Elizabeth 8th graders have increased their proficiency percentage on the State mathematics test by 51% from 2008 to 2011, an improvement that is attributable in part to the fact that all 8th graders have been required to study algebra since the 2006-07 school year.

#### 2. Merck Institute for Science Education

The school system also has been collaborating with the Merck Institute for Science Education. As a result, Elizabeth school students in 4th grade and 8th grade have significantly improved their proficiency percentage on State science tests. The improvement for 4th graders since 2005 is 38% and for 8th graders it is 57%.

#### 3. **Broad Institute**

The Elizabeth School Board was one of a very small number of boards throughout the country that was selected to participate in a training program funded by a grant from the Broad Foundation. The Chairman of the Center that conducted the program described the Elizabeth Board of Education as "a star participant". In addition, Elizabeth School Superintendent Pablo Muñoz was one of a select group of applicants chosen to participate in the Broad Superintendent Academy, a rigorous training program for superintendents. The Broad Foundation recently has commended the Elizabeth School District for its performance on standardized testing and for improving the performance of students who had previously not been achieving at expected levels.

#### 4. The Panasonic Foundation

The Panasonic Foundation has selected Elizabeth as the only district in New Jersey to be provided technical assistance to improve curriculum and teaching. The Executive Director of the Foundation describes Elizabeth as a "strong, capable, inspired partner school district that is aggressively pursuing the vision of college and career readiness for students."

#### 5. National Blue Ribbon Schools

Elizabeth is the only school district in the State of New Jersey that has been recognized by the United States Department of Education for having three National Blue Ribbon Schools during the period 2006 to 2011. Most of the Blue Ribbon Schools designated in New Jersey have been located in the wealthiest districts in the State. The three Elizabeth schools that were recognized – the William F. Halloran School No. 22 (2006), Victor Mravlag Elementary School No. 21 (2008), and Terence C. Reilly School No. 7 (2011) - earned their designation not because its students were from disadvantaged backgrounds but rather because those schools were among the State's highest performing schools irrespective of the demographic make-up of the students.

#### 6. Pre-school

The Elizabeth Public Schools currently serve 3,555 pre-school students ages 3 and 4. Since 2004-2005, the pre-school program evaluation score has increased by 23% based on standardized pre-school evaluation and testing. In addition, the pre-school program has resulted in higher proficiency scores for grades K to 2. In 2010, the percentage of proficiency scores for reading in grades K-2 were 80%, in language arts 87% and in mathematics 87%.

#### 7. Restructuring of Elementary Schools

The report explains that the District's elementary schools have been restructured and that all six middle schools have been replaced with reconfigured schools serving grades K to 8. During the same period, Elizabeth has completed the construction of 7 new public schools. The elimination of middle schools has resulted in a marked reduction of vandalism, school violence and substance abuse.

#### 8. <u>Decentralization of High School</u>

The school board also has restructured the District's high school and has divided Elizabeth High School into six separate and distinct high schools consisting of the following:

- a. Elizabeth High School the District's most demanding program requiring 160 academic credits for graduation and 60 hours of community service. In 2010 and 2011 over 90% of graduates pursued post-secondary education in a two year or four year college.
- b. Alexander Hamilton Preparatory Academy a high school designed to prepare students with a 2.0 grade average with demonstrated academic potential to prepare for college.
- c. John E. Dwyer Technology Academy this academy offers courses in electronics, biotechnology, civil engineering, architectural, aerospace, computer science, robotics, computer design and implementation.
- d. Thomas Jefferson Arts Academy this academy offers college preparatory courses in creative writing, theater, visual arts, performing arts and audio and visual media.

- e. Admiral William F. Halsey, Jr. Leadership Academy this academy offers programs designed to develop leadership skills with emphasis on military leadership, criminal justice, education leadership and business leadership.
- f. Thomas A. Edison Career and Technical Academy this academy offers instruction in construction technology, health science, automotive technology and hospital and retail service.

The results of the high school reconfiguration have been excellent, evidenced in part by significant standardized test result improvements in language arts and mathematics for grades 9, 10 and 11 and a substantial increase in the number of advanced placement courses from 2005 to 2011. The Washington Post newspaper publishes a challenge index and in 2011 it ranked Elizabeth High School second in the State of New Jersey and 176th nationally in its rating of high schools' ability to prepare their students for college.

#### 9. Perfect Score Awards

In 2005 the year in which Pablo Muñoz became Acting Superintendent, only twelve Perfect Score Awards were achieved by Elizabeth grade school students on any of the NJ ASK tests. In 2011, 330 Perfect Score Awards were achieved by Elizabeth students who received awards at the Perfect Scores Awards Ceremony held on November 22, 2011, an increase of 2,650%.

The Report discusses other rewards and recognition received by Elizabeth school students and notes the implementation of the school uniform requirement. The Report concludes that the educational achievements of Elizabeth school students during the past six years have been outstanding. The Report also concludes that the atmosphere of politicization alleged by Senator Lesniak and Mayor Bollwage, as well as the Star Ledger, could not exist in a District with so exemplary and extraordinary a record of achievement.

#### **Employee Interviews**

Lawyers from our law firm interviewed 131 employees who were randomly selected by Dr. Jimmy de la Torre, an Associate Professor of Educational Statistics and Measurement in the Department of Educational Psychology, Rutgers Graduate School of Education.

Those interviews revealed that out of the 131 employees interviewed, 41% never had donated to a Board Election campaign. Out of 117 employees who responded to a question about volunteering for Board campaigns, 63% never had volunteered.

Out of the 131 employees interviewed, only 1 employee said that he may have felt pressure to donate to a campaign, and the same employee was the only one out of 131 employees who said that he may have felt pressure to volunteer to a campaign.

Based on those responses, our statistical expert, Prof. de la Torre, advised us that we can be 95% confident that the margin of error in the estimate of eight-tenths of one percent  $(1 \div 131)$ 

who felt pressure to donate is 1.5%. Stated another way, we are 95% confident that, based on the margin of error, the percentage of employees who may have felt pressure to donate or volunteer ranges from a low that is a percentage rate close to zero to no more than 2.3%.

The conclusion to be drawn from the random interviews of 131 Elizabeth School Board employees is that there is absolutely no evidence to support the allegation that employees consistently are pressured to donate to or volunteer for school board campaigns. The interview results clearly contradict the allegations in the Star Ledger's stories and cast grave doubt about the credibility of the Star Ledger sources.

#### **Nepotism**

The Report concludes that none of the relatives of current board members presently or previously holding employment positions with the Board of Education did so in violation of state law or regulation or in violation of Board policy. A substantial number of Board member relatives currently employed by the Board were hired before the Board member took office.

#### **The Star Ledger Sources**

The May 22, 2011 Star Ledger article and May 23, 2011 editorial relied on seven identified sources for the allegation that the School Board pressured employees to contribute to political fundraising events. Those seven individuals were Frank Cuesta, Louis Alt, Ronald Matlosz, Thomas Dunn, Jr., Ronald Davidson, Patty Gallante and Eddie Branquinho. The Report explains that each one of those individuals has had either an adversarial relationship with the Board of Education or Superintendent Muñoz and/or has been allied with the political organizations of Senator Lesniak and Mayor Bollwage. The Report also refers to journalistic codes of ethics that make crystal clear that news articles always should divulge personal biases so that readers can evaluate the objectivity of persons relied on in the articles. The Statement of Principles adopted by the American Society of Newspaper Editors states clearly that "every effort must be made to assure that the news content is accurate, free from bias and in context, and that all sides are presently fairly." The Report concludes that the Star Ledger violated that fundamental principle of journalism by, knowingly or unknowingly, relying on sources who obviously were biased against the Board of Education, but the Star Ledger reporting did not disclose that bias. Because none of the sources relied on by the Star Ledger was objective or impartial, I have concluded that the Star Ledger's reliance on those obviously biased sources was inconsistent with well accepted journalistic principles. I further conclude that the Star Ledger news stories and editorials are inaccurate and unfair and that they have caused undeserved damage to the reputation of an outstanding urban district.

#### Recommendations

The Report describes fundraising events sponsored by "Continue the Progress" or the "Fajardo Team" over the past eight years, most of which were conducted through mail solicitations with a minimal amount of in-person solicitation.

We note that two events – a testimonial dinner on September 24, 2010 honoring Rafael Fajardo and a testimonial dinner honoring Superintendent Pablo Munoz on May 21, 2011 – were conducted differently, with the use of host committees consisting substantially of high-ranking employees of the Board of Education.

The Report recommends to the Board that it engage in whatever action is necessary and appropriate to preclude the organization of host committees of that nature used to sponsor political fundraising events as they could be viewed as inconsistent with the primary educational mission of the Board of Education. Although those dinners were organized by individuals outside the course of their employment at the Board of Education, the appearance of so many high-ranking staff members on the host committees could create an incorrect impression. The Board's action also should emphasize that any fundraising or the use of Board equipment for political purposes on Board premises or during Board of Education working hours is prohibited.

#### Conclusion

The Report notes that the New Jersey Supreme Court, in a series of school funding decisions during the 1990s, had ordered that urban school districts such as Elizabeth were to be provided additional funding that was equal to the amount of funding per pupil that was provided in the State's wealthiest districts and that, in addition, that funding should be sufficient to pay for supplemental programs such as pre-school and full day kindergarten in order to provide urban school children with a fair chance to compete on an equal footing with children from wealthier districts.

The Report observes that the Star Ledger, through its editorials, had supported those court decisions that would direct greater funding to urban districts. It also noted that Elizabeth was precisely the kind of urban school district that benefitted greatly from those school funding decisions.

The Report finds it astonishing that with 590 school districts in the State, the Star Ledger would single out Elizabeth - one of the best examples of urban educational improvement envisioned by those Court decisions – as the target for so harsh, unfair and unsubstantiated a series of articles. The Report concludes with the observation that the Elizabeth school system is one of the most successful urban school districts in New Jersey and that the residents of Elizabeth rightly can take well-deserved pride in the extraordinary accomplishments of the city's schoolchildren.

February 9, 2012

# Elizabeth Board of Education Internal Review:

#### Report of Special Counsel

#### INTRODUCTION

A series of newspaper stories, editorials and op-ed pieces in the Star Ledger beginning in May 2011, relying primarily on statements by a small number of former Board of Education employees, repeatedly has asserted that members of the Elizabeth Board of Education systematically and continuously pressured Board employees to contribute to Board election campaigns and to dinners or other events intended to raise campaign funds. Ledger infers, based on those selective interviews, that employees are threatened with punishment or enticed by rewards to make frequent campaign contributions. An editorial states that Board members "have lost their ethical bearings entirely," noting that a number of District employees are relatives of current or past Board members. Although one article briefly noted that District test scores are up and that the Superintendent, Pablo Muñoz, enjoyed a good reputation, the overriding message was that the members of the Board have betrayed the public trust by politicizing the educational mission of the Elizabeth Public Schools.

After conducting a rigorous, comprehensive and independent review of the Star Ledger's allegations, I have concluded that

the Ledger's repeated assertions that the members of the Elizabeth Board of Education consistently have pressured employees to donate to campaigns and otherwise politicized the District's employees and its educational mission are untrue, unfair and unsubstantiated. I also have determined that the Ledger articles, knowingly or unknowingly, failed to disclose that virtually all of the sources relied on by the Ledger for its allegations and conclusions are former employees with documented adversarial relationships with the Board or with Superintendent Muñoz. In addition, a substantial number of the Ledger's sources are former employees who are politically allied, directly or indirectly, with the political organizations headed by State Senator Raymond Lesniak and Mayor J. Christian Bollwage, organizations that for many years actively have been engaged in attempting to unseat or otherwise undermine the elected members of the Elizabeth Board of Education.

I also have concluded that the Ledger articles unfairly omitted any description of the severe and intense political hostility generated by the organizations headed by Senator Lesniak and Mayor Bollwage and directed at the Elizabeth Board. Without an understanding of the intensity of the efforts by the Senator and Mayor to undermine the Board and unseat its members, readers of the Ledger's articles would be unable to understand

the reasons for the existence and determination of the political organization that supports the Board.

Most significantly, the Ledger articles unfairly understate the extraordinary and exemplary educational progress achieved by the Elizabeth School Board, under the leadership of Superintendent Muñoz, over the past six years. By any measure, that spectacular and indisputable record of educational progress – which has been steadfastly and enthusiastically supported by members of the School Board – in and of itself is sufficient to repudiate the Ledger's allegations that the educational mission of the Elizabeth school system has been politicized by the Board. 1

In view of the distorted and unfair portrayal of the Elizabeth school system by the series of articles published by the Star Ledger, the Board justifiably was concerned that the parents of the school Districts' more than 23,000 students could have diminished trust in the District's educational mission.

That the parents of Elizabeth's school children have confidence in the Districts' educators, administrators and leadership is

Pashman Stein and I were retained to conduct this review and prepare this Report by resolution of the Elizabeth Board of Education adopted June 30, 2011. On August 21, 2011, the Star Ledger reported that children of two administrators and the School Board President were receiving subsidized school lunches although their parents' incomes exceeded federal eligibility standards. Those officials were charged with criminal offenses by the New Jersey Attorney General in September 2011. The Board has retained separate counsel to represent it in connection with an ongoing investigation of that issue. Accordingly, allegations concerning improper receipt of subsidized school lunches are beyond the authorized scope of this Report and will not be addressed by the Report.

vital to the District's continued educational progress.

Although the investigation that produced this report was protracted and costly, the District's well-earned reputation for educational excellence and innovation clearly deserves vindication.

#### POLITICAL CONTEXT

Since the mid-1990s, an ongoing political battle has been waged annually in Elizabeth over seats on the nine-member Board In the mid-1990s, Board control was held by of Education. members allied with Mayor Bollwage and Senator Lesniak. But changes in the city's population and in the makeup of the student body apparently have had a gradual but sustained influence on voter participation in Board elections. Currently, Elizabeth is New Jersey's fourth largest city. Its population of approximately 125,000 includes a highly diverse residential community whose roots can be traced to at least fifty different countries; students in the school system speak more than forty languages, including Spanish, Haitian Creole, Portuguese and English. Approximately sixty-eight percent of the city's residents are Hispanic, eight percent white, two percent Asian and twenty-two percent African-American.

Largely as a result of population changes within the city and dissatisfaction with the quality of education offered by the Elizabeth school system, changes in membership on the Board beginning in the late 1990s resulted in a school Board less responsive to Mayor Bollwage and Senator Lesniak and somewhat more responsive to the influence of the changing residential community.

But reform of the school system proved to be challenging. In 1996 new Board members replaced Superintendent Manuel Gonzalez with Tom Dunn, Jr. He was the son of the former Mayor and, in the late 1980s, had been selected as Superintendent by a Board whose members were appointed by his father. (Membership on the Board has been elective rather than appointive since 1989.) The new Board members, who in 1998 became aligned with a newly-formed political organization known as "Continue the Progress, " found it difficult to make significant changes and improvements in the school system. Superintendent Dunn, using what some former Board members describe as divide-and-conquer tactics, managed to retain effective control of the school system, despite the fact that a majority of the members were politically affiliated with the Continue the Progress organization. Moreover, despite growing dissatisfaction with Dunn, his contract automatically was renewed in 2001 for five more years because the Board failed to provide adequate notice of its intention not to renew the contract.

Seeds of change in the school system were planted in 2003 when Pablo Muñoz was named Assistant Superintendent. Muñoz, a graduate of Elizabeth High School, Yale University and Columbia University's Teachers College, had taught and later served as Supervisor of Social Studies from 1991 to 1999, and then served as Director of Curriculum and Instruction from 1999-2002. As

Assistant Superintendent, Muñoz developed and implemented a new school-based budgeting system and was responsible for the long-term planning that led to the opening of seven new schools in Elizabeth, plus one more being under construction and one awaiting commencement of construction.

In 2005, when the Board informed Superintendent Dunn that his contract would not be renewed, Pablo Muñoz was named Acting Superintendent and became Superintendent in 2006. A summary of educational progress led by Superintendent Muñoz appears in another section of this Report.

During the period between 1996 and 2005, the political rivalry between the Lesniak/Bollwage organization and Continue the Progress persisted. Candidates backed by the Lesniak/Bollwage organization were elected in 1996, 1997 and 2006, but a majority of the Board members during this period were affiliated with or supported by the Continue the Progress organization.

The hostility and political antagonism on the part of the Lesniak/Bollwage political organization toward Board members supported by Continue the Progress intensified in 2006, as a result of a lawsuit filed by the Board of Education against the City of Elizabeth, the Mayor and City Council, Trumbull Street Business Center, LLC, and Luis and Vivian Rodriguez. The pleadings and briefs filed by McCarter & English, the Board's

attorneys in the litigation, explain the events that led to the Since the late 1990s, the Board had been concerned about suit. overcrowding at Elizabeth High School, whose 5,300 students were accommodated in buildings designed for 3,000 students. the overcrowding posed safety risks and created educational limitations, the Board tried to find a site for a new vocational high school and physical education complex to relieve the overcrowding. Initially, the Board focused on a site owned by New Jersey Transit, but city officials stated that the city intended to acquire that site for redevelopment purposes. Thereafter, the city encouraged the Board to consider four other sites for the vocational high school including the Johnson Machinery site, the ELG Metal site, a Jefferson Avenue site and property on Grand Street near Routes 1&9. Subsequently, city officials withdrew their support for the ELG Metal site and the Jefferson Avenue site, and the Johnson Machinery and Grand Street sites were determined to be environmentally unacceptable.

Accordingly, the Board refocused its attention on the New Jersey Transit site, and the Gunite property immediately adjacent to it, which contained nine acres and would accommodate both a vocational high school and a physical education complex. City officials again refused to make the property available to the Board, stating that the property was planned for redevelopment. At a meeting on December 8, 2005, between Mayor

Bollwage and Superintendent Muñoz, the Mayor reiterated that the Gunite and New Jersey Transit properties were not available, but that he would try again to locate alternative sites. On December 12, 2005, the Mayor called Superintendent Muñoz and informed him that he was rescinding his offer to help find an alternative site for the proposed vocational school because the Board had hired an appraiser to value the New Jersey Transit property. The Mayor said to Superintendent Muñoz: "You'll never get this school built."

The complaint filed in the litigation alleged that on December 27, 2005, the Elizabeth City Council adopted Ordinance 3774 that authorized the sale of the New Jersey Transit property to Trumbull Street Business Center, an LLC owned by Luis Rodriguez, a long time contributor to and supporter of Mayor Bollwage, for \$520,000. The complaint attached an expert's appraisal of the property dated January 11, 2006 that valued the property at \$5,125,000.00. The complaint sought injunctive relief, alleging that the proposed sale was part of a "scheme" among the defendants to convey and acquire public property at prices below market value for private gain.

After the complaint was filed by the Board, all defendants agreed to the imposition of temporary restraints prohibiting any sale or transfer of the New Jersey Transit property. In February 2006, the Council rescinded its prior resolutions

designating Rodriguez and Trumbull as developers of the property. The following month, the City Council adopted Ordinance 3801, which rescinded Ordinance 3774, as well as the sale of the New Jersey Transit property to Trumbull and its designation as developer of the property.

Retaliation against the Board for challenging the property transaction was swift. In March 2006, Senator Lesniak requested the State Assembly's Budget Committee to scrutinize the finances of the Elizabeth School District and also requested that the State Department of Education appoint a monitor to oversee the district's spending. In an editorial appearing in the Star Ledger on April 1, 2006 and entitled "Looks Like Payback," the Ledger observed:

What we fear is that this is not about dealing with mismanagement of public funds. It's about payback. Lesniak seems to be out to punish the school board and by extension the taxpayers of Elizabeth. That's as indefensible as the original multimilliondollar giveaway to the developer.

A copy of the Star Ledger April 1, 2006, editorial is attached as Exhibit A to this Report.

Notwithstanding the Star Ledger editorial, Senator Lesniak did not relent in his efforts to subject the school district to repeated and successive audits and investigations that consumed a disproportionate amount of staff and financial resources and distracted the district from its educational mission. From

March 2006 through October 2007, the Elizabeth School District was monitored twice by the State Department of Education, and subjected to two audits and nine investigations by the same agency. None of those proceedings uncovered any major budgeting or financial irregularities.

In addition, in September 2006 the Office of the Inspector General of the U.S. Department of Education initiated an audit of the District's finances, apparently at the request of Congressman Robert Andrews, a Camden County congressman and a political ally of Senator Lesniak. Congressman Andrews, whose Congressional office in New Jersey is approximately eighty miles from Elizabeth, did not offer any explanation for his decision to single out Elizabeth's School District as a target for a federal audit. The audit's announcement was noted in a press release that expressed an intent "to determine if federal funds were used in accordance with applicable federal cost principles," observing that "Elizabeth families and students deserve nothing less." On September 25 and 29, 2006, Superintendent Muñoz wrote to the U.S. Secretary of Education to inform her that the District suspected strongly that the audit was politically motivated, and that the fact of the audit already had been publicized in campaign literature distributed by opponents of the District. Those letters are attached as Exhibits B and C to this Report.

On April 12, 2007 - one week prior to Elizabeth's annual school board election - the Star Ledger reported that Elizabeth Mayor Chris Bollwage publicly alleged that the Board of Education might have to repay as much as two million dollars to the federal government because of inadequacies in the District's documentation in support of Federal Title I, Part A, expenditures. Mayor Bollwage had obtained from the then Union County School Superintendent a copy of a confidential preliminary audit document prepared by the Department of Education's Inspector General, and apparently not publicly obtainable under the federal Freedom of Information Act.

The Office of Inspector General issued its audit report on October 9, 2007, concluding that the Elizabeth School District had not adequately documented certain costs charged to the Title I, Part A grant of federal funds, and identifying confusion regarding the District's process for allocating Title I, Part A funds and services to schools within the District. In a response submitted on May 15, 2008, Lucille Davy, Commissioner of the New Jersey Department of Education, requested that the findings and recommendations in the OIG report be reconsidered and withdrawn, observing that the District's actions were "consistent with federal requirements and did not result in any harm to federal programs."

Additional information in support of Elizabeth's use of Title I funds and the adequacy of its documentation was provided on September 22, 2008 by the N.J. Department of Education. The ultimate result of the audit, explained in a letter to then Commissioner Schundler dated March 24, 2010, required repayment of only \$12,939, attributable to the inadvertent purchase of four computers for \$7,696 with Title I funds, and the expenditure of \$5,243 of Title I funds for school supplies at six schools that had not been included in Elizabeth's Title I grant application. The final determination by the U.S. Department of Education was consistent with Commissioner Davy's contention that the Elizabeth School District's use and documentation of Title I funds was essentially consistent with federal requirements and did not cause harm to the federal Title I program.

Senator Lesniak's persistent harassment of the Elizabeth
School Board was aggressively supported by Mayor Bollwage. On
February 21, 2006, a few weeks after the Mayor and Council had
been restrained from proceeding with the sale of the New Jersey
Transit property to a private developer, Mayor Bollwage sent a
letter to Governor Jon Corzine accusing the Board of
mismanagement and misuse of government funds and requesting that
the State Department of Education assume control of the
Elizabeth Public Schools:

At the very least, serious consideration should be given to the takeover of the Elizabeth Public School District by the State Department of Education as well as an external audit of all District finances should be conducted.

A copy of the Mayor's letter to the Governor is attached as Exhibit D.

From 2006 to 2010 the Elizabeth Board of Education was subjected to numerous audits and investigations by various State agencies, including the New Jersey Department of Education, whose Office of Fiscal Accountability and Compliance conducted ten or more separate investigations during the time period, the New Jersey Division of Public Contracts and the Office of Legislative Services. None of those audits or investigations resulted in findings that were materially critical of the District's management of its finances. Responding to and complying with record production demands by the investigating agencies required the District to expend countless hours of employee time and other valuable resources that were diverted from the District's educational mission. District administrative officials believe that many, if not most, of the audits and investigations resulted from political pressure exerted by Senator Lesniak or Mayor Bollwage. A timeline of audits and investigations targeting the Elizabeth School

District from 2005 to 2010 is attached to this Report as Exhibit E.

In addition, during the same 2005-2010 time period, the Elizabeth Board of Education received over sixty separate Open Public Records Act (OPRA) requests for information, the originators of which were in most instances either directly or indirectly allied or affiliated with Senator Lesniak, Mayor Bollwage or their political organizations. Many of the OPRA requests have multiple components. As was the case with the multiple audits and investigations, the extensive manpower and resources required to respond to the OPRA requests diverted employees from their educational and other responsibilities.

The 2006 litigation between the Elizabeth Board of Education and Elizabeth's Mayor and Council over a prospective site for a new vocational high school precipitated highly adversarial elections for membership on the Board of Education in 2007 and 2008. In 2007, the Lesniak/Bollwage organizations supported a three-person slate of school board candidates (Carole Cascio, Madinah Hawkins and Carlos Alma) under the slogan "Committee for Change" that ran unsuccessfully against the three candidates backed by the "Continue the Progress" organization. Campaign reports filed with the Election Law Enforcement Commission reveal that the "Committee for Change" ticket outspent the winning candidates by more than \$20,000.

In 2008, an extremely adversarial campaign was waged by the Lesniak/Bollwage "Committee for Change" candidates (Neptune Ambroise, Elizabeth Cano and Krishna Garlic) that also proved to be unsuccessful. Although the expenditure report filed in July 2008 by Senator Lesniak's Election Fund reported an \$8,200 donation on April 15, 2008 to the "Committee for Change," and the J. Christian Bollwage Election Fund reported a \$5,000 donation on March 6, 2008, no final Report of Contributions and Expenditures ever was filed with the Election Law Enforcement Committee by the Ambroise, Cano and Garlic campaign. A complaint filed with the Election Law Enforcement Commission estimates that the "Committee for Change" campaign spent "well over \$80,000" on the election.

The Lesniak/Bollwage organizations did not run opposition slates in the 2009 or 2010 Board of Education elections, although independent candidates unsuccessfully opposed the "Continue the Progress" slates in both years. In 2011, a slate of candidates (Charlene Bathelus, Silvia P. Nasi and Jose Marcos Rodriguez) supported by Senator Lesniak and Mayor Bollwage unsuccessfully challenged the Continue the Progress ticket. The Bathelus, Nasi and Rodriguez campaign outspent the Continue the Progress campaign by almost \$12,000.

This history of bare-knuckle politics by Senator Lesniak,

Mayor Bollwage and their supporters toward the incumbent

Elizabeth School board members, largely omitted from the Star Ledger's articles and editorials, characterizes the extraordinarily hostile atmosphere in which the Board and its Superintendent have had to function during these past six years. The hostility shows no sign of abating. At a recent meeting in December 2011 of an organization known as Education Watchdogs, to which Senator Lesniak donated \$7,500 on September 12, 2011, Senator Lesniak addressed the members in attendance. Senator Lesniak urged those attending to support his efforts to defeat the incumbent members of the Elizabeth School Board. Senator Lesniak also stated that former school principal and current Elizabeth City Council member Frank Cuesta would be appointed as the next Superintendent of Schools, replacing current Superintendent Pablo Muñoz.

#### EDUCATIONAL PROGRESS

Pursuant to the New Jersey Constitution and laws enacted by the Legislature, the Elizabeth Board of Education is obligated to supervise the Elizabeth public schools and do all things necessary for their conduct, equipment and maintenance so as to assure that the students in the District receive a "thorough and efficient education."

Ironically, the complaints and criticisms directed at Elizabeth School Board members by Senator Lesniak, Mayor Bollwage and their followers rarely are directed at the quality of education provided by the Elizabeth schools. Based on the comprehensive review I have conducted, it would appear that the School Board's critics have not focused on educational issues because the Elizabeth Public Schools have made steady, comprehensive and measurable progress in the quality of education that the schools deliver to Elizabeth school students. That progress is evidenced and reflected by initiatives, reforms, innovations and achievement, including the following:

### Selection of School Board and Superintendent Muñoz to Participate in Broad Foundation Training Programs.

In 2008, the entire school Board was one of a very small number of school Boards throughout the country selected to participate in the Reform Governance in Action (RGA) program

sponsored by the Center for Reform of School Systems. The RGA program trains members of boards of education in the collaborative exercise of governance essential for a cohesive urban board of education. Substantially all of the cost of the Board's participation was funded by a grant from the Broad Foundation. Donald McAdams, the Chairman of the Center, has indicated that the Center regarded the Elizabeth Board as "a star participant" in the RGA program.

The Broad Foundation also operates the Broad Superintendent Academy, a rigorous executive training program for urban school superintendents. Elizabeth Superintendent Pablo Muñoz successfully completed the Academy's program in 2006, a year in which only seven percent of all applicants were accepted. Broad Academy Fellows have included leaders from business, government, education, the military and non-profit organizations.

In order to stay informed of the progress of school districts led by superintendents trained by the Broad Superintendent Academy, the Broad Center for the Management of School Systems, a Broad Foundation affiliate, regularly tracks student achievement in those districts. In response to a request for a summary evaluation of the Elizabeth School District's performance under Superintendent Muñoz, Becca Bracy Knight, Executive Director of the Center, sent the following statement:

Elizabeth's performance in 2010 was above expectations for all grade levels and for both math and English Language Arts given the district's poverty rate. Over the period of Mr. Munoz' tenure the district's math and language arts proficiency rates have risen faster than those in other comparable districts in the state. In addition, the district has moved students up from lower performance levels faster than other comparable districts in the state.

### 2. Consistent and Comprehensive Improvement in Standardized Test Scores.

The scores achieved by Elizabeth school students on New Jersey Assessment of Skills and Knowledge tests (NJ ASK) (grades 3 to 8) and on the High School Proficiency Assessment test (HSPA) (grade 11) have improved in language arts and mathematics in every year since 2005, the year when Pablo Muñoz became Acting Superintendent. Those test results for all school districts are reported annually by the Department of Education on the New Jersey School Report Card, based on the results of tests administered by Measurement Incorporated, an authorized testing company responsible for creating and scoring all New Jersey tests. Moreover, compared to the percentage of proficiency scores of students in the thirty-seven other school districts within the DFG(A) school districts, those with students in the lowest socio-economic status of all communities in the State, Elizabeth students' comparable ranking in every grade tested (grades 3-8 and grade 11), in both language arts

and mathematics, has improved significantly. For example, in 2005, Elizabeth's grade 3 language arts ranking among all 38 DFG A Districts was 16th; in 2011 it was 8th. In 2005 Elizabeth's grade 3 mathematics ranking was 15th; in 2011 it was 6th. Similarly, in 2005, its grade 7 language arts ranking was 18th; in 2011 it was 9th. In 2005 Elizabeth's grade 7 mathematics ranking was 23rd; in 2011 it was 5th. Elizabeth has improved its ranking in language arts and mathematics in every one of the intervening years since 2005 for every one of the grades for which the New Jersey School Report Card has provided data.

Elizabeth's eighth-grade students also have achieved exceptional improvement in the State's standardized mathematics tests since the district introduced Algebra 1 as a course requirement for all eighth graders in 2006-07. That curriculum enhancement was recommended to participating District administrators by a professional development program called "Team Leadership for Mathematics in Middle and High Schools." From 2008 to 2011, Elizabeth eighth graders increased their proficiency percentage on the NJ ASK mathematics test by 51%, improving from 36.6% proficiency in 2008 to 55.3% in 2011.

# 3. Collaboration with Merck Institute for Science Education.

The Merck Institute for Science Education (MISE), funded by a \$38 million commitment from Merck & Co, Inc., has been working

collaboratively with the Elizabeth Public Schools to provide intensive, sustainable and systemic reform in mathematics and science instruction. As a result, the Elizabeth Public Schools are now a participant in the Academy for Leadership and Science Instruction, a three-year program to build effective schoolbased teams of educators whose goal it is to improve the science instructional practices in Elizabeth schools. Elizabeth's partnership with the Merck Institute for Science Education has helped the District to improve significantly the quality of its science education. That improvement is evidenced by a substantial increase in the percentage of proficiency of Elizabeth students on State administered standardized science In 2004-05, the percentage of proficiency of Elizabeth fourth grade students was 56%; in 2010-11, the percentage of proficiency was 77%, an improvement of thirty-eight percent over the 2004-05 results. For Elizabeth eighth graders, the percentage of proficiency on those standardized science tests was 44% in 2004-05; in 2010-11, their percentage of proficiency was 69%, an improvement of fifty-seven (57%) percent over the 2004-05 scores.

Dr. Carlo Parravano, the Executive Director of the Merck Institute for Science Education, has been working collaboratively with the Elizabeth Public Schools to improve science education from Kindergarten through 12<sup>th</sup> grade. The

partnership between MISE and Elizabeth expanded in 2008 to include the Academy for Leadership in Science Instruction, a three year training program to assist Elizabeth science teachers in their classroom presentation. Dr. Parravano states that he "feels strongly that the increase in student scores on the state science tests is linked to the work of the Elizabeth Public Schools/Merck Institute of Science Partnership."

## 4. Restructuring and Reconfiguring of District's Elementary Schools.

A major restructuring of the District's elementary schools has occurred in the past five years. Consistent with initiatives implemented by some of the nation's high-performing urban school systems, Elizabeth has replaced all six of its middle schools (grades 6-8) with reconfigured elementary schools serving grades K-8. That reconfiguration is intended to enhance the stability of the elementary school experience, eliminating a transition to middle school, improve student achievement, and reduce discipline and behavioral problems.

Simultaneously, the Elizabeth School District successfully planned and completed construction of seven new public schools, enabling the District to fully implement its replacement of middle schools with K-8 schools. The newly constructed schools are Nos. 51 and 52, two Early Childhood Centers that each accommodate approximately 300 3-4 year olds; Nos. 27 and 28, two

Pre-K-8 neighborhood schools that together serve approximately 1,900 students; School No. 29, a Pre-K-8 magnet school that offers a curriculum concentrated in science and technology courses; School No. 30, a magnet school with a curriculum that includes leadership training; and School No. 31, a Pre-K-8 neighborhood school that temporarily houses approximately 950 students who formerly attended two schools undergoing major renovations. District administrators believe the improved classroom facilities resulting from the construction of seven new schools and the replacement of middle schools with K-8 schools has contributed substantially to the District-wide improvement in standardized test scores. In addition, since the elimination of middle schools the District has experienced a marked reduction in incidents of violence, vandalism and substance abuse.

# 5. Decentralization and Reorganization of District's High School Program.

A major restructuring also has occurred in the District's high school program. In 2005, Elizabeth High School served a student population of 5,200 students and was one of the largest high schools in the nation. Beginning with the 2009-10 school year, the Elizabeth school District reconfigured the high school, and divided it into six separate and distinct high schools to provide more focused and diversified course offerings

for Elizabeth's students. The following high schools represent the curriculum options available to the approximately 4,975 Elizabeth high school students:

#### a. Elizabeth High School

This high school program is the most demanding of the six programs. To qualify, students must have earned a 3.0 grade point average in elementary school. The program, as is required for all six of the High School programs, mandates completion of 160 academic credits, forty more credits than the State Department of Education requires, and sixty hours of community service. Requirements for graduation in the various academic disciplines are generally more demanding than State standards. In addition, all students must accumulate ten credits in Latin, five additional credits in foreign languages and successfully complete a Senior Project. Over ninety (90%) percent of students graduating from this program in 2010 and 2011 pursued post-secondary education in a two-year or four-year college.

#### b. Alexander Hamilton Preparatory Academy

Among the more popular of the high school programs is the Alexander Hamilton Preparatory Academy, a novel initiative that is available to students with a 2.0 grade point average who demonstrate academic potential and are committed to preparing for post-secondary education. The Academy integrates its academic curriculum with a research-based instructional

methodology known as AVID (Advancement Via Individual Determination), that provides individualized support and tutoring for students participating in a challenging college preparatory curriculum. More than 4,500 schools in 48 states and 16 countries offer the AVID program, including 26 schools in 16 New Jersey school districts. The Academy attracts many students whose parents never attended college and constitutes a unique program designed to expand opportunities for postsecondary education for students willing and able to fulfill the Academy's requirements. One of the District's highest performing High Schools, 92.5% of ninth-grade students and 90.8% of eleventh-grade students demonstrated proficiency in Language Arts on the standardized test results released in 2011. Approximately fifty-percent of the 2011 graduating class plan to attend a four-year college or university and about forty-fivepercent of the class plan to attend a junior or community college.

#### c. John E. Dwyer Technology Academy

Students enrolled in the John E. Dwyer Technology Academy are offered a comprehensive college preparatory program that is integrated with the Academy's two specialized areas of concentration: Industrial Technology and Information Technology.

The Industrial Technology Program includes course offerings in electronics, biotechnology, civil engineering, architecture

and aerospace. The Informational Technology program includes courses in computer science, robotics, computer infrastructure design, hardware design and implementation.

#### d. Thomas Jefferson Arts Academy

Students enrolled in the Thomas Jefferson Arts Academy are required to complete a comprehensive college preparatory curriculum while participating in one of the following areas of concentration:

- Creative Writing, including participation in school publications and courses in communications, graphic arts, printing and production;
- Theater, including participation in student performances and instruction in staging, scenic design, children's theater, make-up and costume structure and design;
- Visual Arts, including instruction in drawing,
   painting, computer graphics, commercial art and sculpture, as
   well as participation in school and community art exhibits;
- Performing Arts, including instruction in music theory, composition and improvisation, and participation in concert band, orchestra, string and jazz ensembles, vocal music and dance performances;

 Audio and Visual Media, including instruction and participation in audio and video editing, programming and production techniques.

# e. Admiral William F. Halsey, Jr. Leadership Academy

In addition to a comprehensive college preparatory curriculum, this Academy offers programs and activities designed to develop leadership skills, with emphasis on peer leadership, community service and student government activities.

Instructional programs are offered in Military Leadership, including participation in the school's Marine Corps Junior Reserve Officer Training Corps; Criminal Justice and Law, with courses and activities related to law enforcement and the legal system; Education Leadership, emphasizing skills designed to prepare students for a career in education; and Business Leadership, with courses and internships designed to help students in developing entrepreneurial, management and administrative skills useful for success in a business oriented career.

# f. Thomas A. Edison Career and Technical Academy

In addition to offering a college preparatory curriculum, this Academy also undertakes to prepare students to learn a skilled trade. Four areas of instruction are emphasized:

- Construction Technology, focusing on construction trades such as carpentry, electrical contracting, plumbing, and heating, ventilating and air conditioning;
- Health Science, focusing on careers in patient care, nursing, radiology, medical technology and healthcare administration;
- Automotive Technology, focusing on automotive diagnostics, mechanics, operations and repairs;
- Hospitality and Retail Service, which focuses on preparing students for careers in marketing, sales, hotel and restaurant management and related fields.

# Results of High School Reorganization

Superintendent Muñoz and his support staff believe that the reconfiguration of the high school and related initiatives are yielding promising results. As noted, beginning with the Class of 2010 all high school students must accumulate 160 credits to graduate, rather than 130 hours as previously required. In addition, a requirement of sixty hours of community service has been implemented, with high school students volunteering to work at numerous food banks, food pantries and soup kitchens, United Way, Coalition to House the Homeless, and at various preschools and day care centers where they provide tutoring and support services. The school day has been extended in all six high schools by one hour daily, from 7:30 a.m. to 3:56 p.m.

Consistent with the enhanced rigor of the curriculum, the high schools have substantially increased the number of Advanced Placement course offerings and Advanced Placement examinations available to students. Significantly, there has been a 249% increase in Advanced Placement examinations from 2005 to 2011.

In that connection, the Washington Post newspaper annually ranks the nation's high schools (excluding magnet and charter schools) based on a Challenge Index designed to measure how effectively high schools prepare their students for college.

The Index is calculated by taking into account the size of a High School's graduating class and the number of Advanced Placement or other college level tests offered to the students, on the assumption that the extent of the availability and implementation of college preparatory testing is highly indicative of a high school's commitment to preparing its students for college. In 2011, the Washington Post's Challenge Index ranked Elizabeth High School second in the State of New Jersey and 176th nationally. See <a href="http://apps.washington">http://apps.washington</a>

Standardized test results since the reconfiguration of the high school in 2009 have revealed significant improvements in Language Arts and Mathematics proficiency for Grades 9, 10 and 11. From 2009 to 2011, the percentage of proficiency improvement in Language Arts and Mathematics was as follows:

Elizabeth Public Schools High School Students - Performance on District and State Assessments					
	2009	2010	2011	% Change	
Grade 9-Language Arts	64.5	71.4	66.5	+3.1%	
Grade 9- Mathematics	44.2	50.1	54.8	+24.0%	
Grade 10- Language Arts	63.3	66.5	65.6	+3.6%	
Grade 10- Mathematics	49.3	53.1	63.5	+28.8%	
Grade 11- Language Arts	63.2	67.6	73.8	+16.8%	
Grade 11- Mathematics	43.0	49.4	50.4	+17.2%	

## 6. Panasonic Foundation

The Panasonic Foundation is a non-profit foundation that provides technical assistance to 10 school districts around the country, including Elizabeth Public Schools in New Jersey, and works with 12 superintendents participating in the New Jersey Network of Superintendents, including Pablo Muñoz. The mission of the Panasonic Foundation is to partner with public school districts and their communities to break the links between race, poverty, and educational outcomes by improving the academic and social success of all students.

In 2008, the Foundation initiated outreach to New Jersey urban school districts to identify and then establish a partnership with a New Jersey school district. Early in 2008, the Foundation sent an invitational letter to the 24 superintendents in New Jersey whose school districts serve at least 6,000 students and with at least 30% of these students

qualifying for free or reduced-price meals. Two districts responded: Elizabeth and New Brunswick. Both districts were visited by a team of five Panasonic Foundation representatives. The Foundation's site visit protocol, including conducting interviews and forums, visiting schools, reviewing of student performance data, and gathering information was used in both districts.

The Panasonic visiting team, after debriefing the visits to each district, selected the Elizabeth Public Schools as a good match for the Panasonic Partnership Program. Elizabeth Public Schools demonstrated readiness, willingness, openness, and candor important to support the viability of a long-term partnership. Further, the district presented clear evidence of a) an enacted vision and mission; b) willingness of the Board, superintendent and collective bargaining units to support coherent and aligned continuous improvement efforts; c) commitment to reform; d) potential for giving Panasonic Foundation consultants access to the core work of the District and e) a culture of learning.

Using the Elizabeth Public Schools Strategic Plan as the starting point, Panasonic Foundation consultants and Elizabeth Public Schools leaders identified and agreed upon five broad areas on which to focus the work of the partnership:

- Building the capacity of schools to develop and implement school-level improvement plans in ways that would be informed by and aligned with the overall District Strategic Plan;
- 2. Developing a shared, system-wide definition of "what does good instruction look like?" so that all improvement efforts can be guided by, and directed toward, a common vision of instructional excellence;
- 3. Building the capacity of the District's Assistant Superintendents to coach, mentor, supervise, and evaluate the instructional leadership of Principals and Vice-Principals;
- 4. Designing a specific process for supporting growth and improvement in the District's lowest-performing schools; and
- 5. Designing and implementing a process that focuses school-level and system-level staff on the critical importance of the "instructional core" (teacher, student, content) for improving teaching and learning.

Since June of 2009, these five major areas of focus have guided the work of the partnership. Each summer, through a comprehensive Partnership Review Process, Panasonic Foundation senior consultants and Elizabeth Public Schools leaders review the progress that has been made in each of these broad areas, jointly assess the degree to which the indicators of success have been realized, and offer recommendations as to how the collaborative partnership work can be improved.

Dr. Larry Leverett, Executive Director of the Panasonic Foundation, offered these comments about the Foundation's experience in consulting with the Elizabeth Public Schools:

The Foundation looks forward to a continued partnership with the Elizabeth Public Schools. The district is tirelessly focused on the improvement of teaching and learning and is committed to build shared ownership across all stakeholders for the success of all Elizabeth Public School students. The performance of Elizabeth Public Schools students on state accountability measures indicates steady progress, and the board, superintendent, senior leadership, school leaders and teaching staff are to be commended for their aligned efforts to advance the vision of college and career readiness for all students. District and school leaders recognize the long road ahead to achieve their vision for Elizabeth Public Schools graduates and have established the foundation upon which to build toward the bold vision. The Panasonic Foundation views Elizabeth to be a strong, capable, inspired partner school district that is aggressively pursuing a vision of college and career readiness for all students. The Foundation has been and continues to be pleased to be partnering with Elizabeth Public Schools and joins the Elizabeth community in celebrating improvements in student performance in a number of areas.

#### 7. National Blue Ribbon Schools

In 1982, the United States Department of Education initiated the National Blue Ribbon Schools Program, which recognizes public and non-public schools in which students achieve at very high levels or in which students are making the most progress in reducing the achievement gap by improving student performance. The program is one component of a Department of Education effort to identify and disseminate knowledge about best school leadership and teaching practices.

From 1982 to date, Blue Ribbons have been awarded to 125 New

Jersey public and charter schools, most of which - approximately
sixty percent - are located in the wealthiest districts in the

State. (DFG GH, I&J). Only six percent of the schools

designated were in District Factor Group A.

Since 2005, three Elizabeth elementary schools have been honored with the Blue Ribbon School designation: William F. Halloran School No. 22 (2006); Victor Mravlag School No. 21 (2008); and Terence C. Reilly School No. 7 (2011). Those schools did not receive their Blue Ribbons on the basis of the less rigorous eligibility standard entitled "Exemplary Improving Schools," which are schools with at least forty percent of their students from disadvantaged backgrounds that have shown the most progress in State standardized tests in Language Arts and Mathematics over the past five years. Rather, the three Elizabeth Schools earned their designation under the standard entitled "Exemplary High Performing Schools". Under that standard, irrespective of a school's demographics or its percentage of students from disadvantaged backgrounds, an eligible school is one that is ranked among its State's highest performing schools as measured by State assessments in both Language Arts and Mathematics. Accordingly, Elizabeth's three schools won their Blue Ribbons because they were among the

State's highest performing schools, and not on the basis of their progress in improving student performance.

Significantly, from 2005 to 2011, the period of Superintendent Muñoz's service, Elizabeth was the only school district in New Jersey to have three schools awarded the National Blue Ribbon.

Although the demographics of the three Elizabeth Blue Ribbon Schools were irrelevant to their designation, the schools' demographic statistics are revealing. In 2011, 82% of the enrollment at Terence C. Reilly School No. 7 was black or Hispanic, and 73% of the students were eligible for free lunches. In 2008, 71% of the enrollment at Victor Mravlag School No. 21 was black or Hispanic and 40% of the students were eligible for free lunches. In 2006, 77% of the enrollment at William F. Halloran School No. 22 was black or Hispanic, and 45% of the students were eligible for free lunches.

#### 8. Pre-School

The Elizabeth Public Schools currently serve 3,555

preschool students ages 3 and 4 in its early childhood program

both in-district and at nine provider sites. At three of those

sites the district has opened early childhood centers that

provide a Dual Language Program to 900 preschool students. The

Dual Language Program offers children the opportunity to acquire

<sup>&</sup>lt;sup>2</sup> Eligibility for free lunches indicates that the income of the student's parent or parents is low enough to meet federal criteria for free lunches.

a second language while providing support in maintaining the native language for English and Spanish speakers. In addition, the Dual Language Program enables native Spanish speakers to maintain and reinforce their heritage, language and culture.

Since 2004-2005, the Elizabeth Public Schools preschool program has seen a 23% increase in classroom assessment scores when preschool classrooms are evaluated using the Early Childhood Environmental Rating Scale-Revised (ECERS-R). ECERS-R measures the classroom environment including the program structure, activities and interactions, language-reasoning, and personal care routines to determine the quality of the program implementation. During the 2004-2005 school year, a random sample of 19 classrooms was evaluated using the ECERS-R by the Early Learning Improvement Consortium and scored a 4.98 on a 7 point rating scale. In the spring of 2010, the Elizabeth Publics Schools contracted with William Patterson University to conduct the ECERS-R in all 192 preschool classrooms districtwide and received an average score of 5.67. The following year, the district expanded its preschool program to include another 29 in-district classrooms and again engaged an outside evaluator to conduct the ECERS-R on 221 preschool classrooms district wide for the 2010-2011 school year. The district contracted with the National Institute of Early Education Research (NIEER) to conduct the 2010-2011 ECERS-R and received a district-wide

average of 6.14 on a 7 point scale. That score reflects a 23% improvement since the 2004-2005 school year.

The excellence of Elizabeth's Early Childhood program has had a significant influence on the composite percentage of proficiency scores for grades K-2. In 2010, percentage of proficiency scores for reading in grades K-2 were 80%, in language arts 87% and in mathematics 87%.

# 9. Perfect Score Awards

The Elizabeth Public Schools conduct an annual Perfect Score Awards Ceremony to honor those students (and their teachers) who achieved a perfect score on one or more of the New Jersey assessment of Skills and Knowledge (NJ ASK) tests administered annually in Language Arts, Mathematics and Science to all third through eighth graders. In 2005, the year in which Pablo Muñoz became acting Superintendent, only 12 Perfect Score Awards were achieved by Elizabeth grade school students. In 2011, 330 Perfect Score Awards were achieved by Elizabeth Public School students who received awards at the Perfect Scores Awards Ceremony held on November 22, 2011, an increase of 2,650%.

#### 10. Other Awards and Recognitions

A. In 2011, the Alliance for a Healthier Generation, founded by the American Heart Association and the William J.

Clinton Foundation, recognized seventeen Elizabeth Public

Schools - ten with Silver Awards and seven with Bronze Awards -

for transforming their schools into healthier places for students to learn. To earn those awards, each school reconfigured its food service and physical activity programs to meet or exceed stringent standards set by the Alliance's Healthy Schools Program, an initiative supported by the Robert Wood Johnson Foundation that provides resources and advice to schools throughout the country to help reverse the national trend of childhood obesity. At the award ceremony, former President Bill Clinton singled out the cities of Elizabeth, New Jersey; Miami, Florida; Los Angeles, California; and Prince George's County, Maryland, for having the highest numbers of schools to receive those awards.

- B. On November 5, 2011, the 145-member Elizabeth
  High School Marching Band, competing against a field of 42 other
  New Jersey High School Marching Bands, won the United States
  Scholastic Band Association Group V State Championship. The
  marching band, whose members practice together throughout the
  year, including summers, also won awards for "Best Music," "Best
  Percussion" and "Best Visual."
- C. In 2007, Elizabeth's Dr. Albert Einstein Academy School No. 29 was one of twenty-five schools in the nation to be selected by the National Aeronautics and Space Administration (NASA) to participate in a three-year program focused on improving education in mathematics, science and technology. The

designation of the 25 National Explorer Schools took place at the Johnson Space Center in Houston, Texas, home of the nation's space agency.

D. On December 2, 2011, the Architectural Drafting class at Elizabeth's John Dwyer Technology Academy participated in a bridge building competition with 15 other High Schools from Union, Middlesex and Warren Counties. In the Novice category, the bridges designed by John Dwyer students placed first and second of the 25 bridge designs submitted. The winning entries, designed by 17 John Dwyer Academy students, were recognized for having the lightest weight and the highest weight-bearing capacity of the 25 submissions.

# 11. School Uniform Initiative

Starting in 2006, the Elizabeth Board of Education adopted a school uniform policy in the belief that uniforms could foster school spirit, contribute to a sense of community and improve student discipline. A survey of parent opinion in the elementary schools revealed overwhelming support for uniforms, even before the Board of Education announced that it would pay for one set of uniforms for each child.

As of October 2011, 22,573 students, out of the total enrollment of 23,410 students, wear uniforms on a daily basis. The only non-uniform school in the District is the Jefferson Arts Academy. District administrators believe that the School

Uniform Initiative has had a positive effect on student morale and has contributed to a cohesive and collaborative learning environment.

\* \* \*

The foregoing summary of the Elizabeth School District's educational progress under the leadership of Superintendent Muñoz, achieved with the committed support of the members of the Board of Education, demonstrates that an adequately funded urban school district, with strong leadership, can vastly improve the educational opportunities of its students. By any measure, the educational achievements of Elizabeth school students during the past six years has been outstanding. The culture of politicization and cronyism, repeatedly alleged to exist in the district by Senator Lesniak and Mayor Bollwage, and echoed by the Star Ledger articles, never could exist or survive in a district with so exemplary and extraordinary a record of achievement as Elizabeth has documented.

#### III

# EMPLOYEE INTERVIEWS3

This was the headline of the lead story on the front page of the Star Ledger on Sunday, May 22, 2011:

Investigation Finds Elizabeth School Board Pressures Workers To Till Campaign Coffers.

The ensuing article states that

[t]eachers and other employees \*\*\* say they feel pressured by supervisors and board members to buy tickets to fundraisers. They say they are reminded that attending campaign events is in their best interest.

\* \* \*

Those interviewed said the pressure to contribute in Elizabeth is always there; that not playing for the team was a bad career move.

I interviewed those individuals responsible for fundraising for School Board campaigns waged by current and prior members of the Board about the Star Ledger allegations. They informed me that those allegations were false and unfounded, and stated

<sup>&</sup>lt;sup>3</sup> The conclusions reached in this report are based in part on interviews of 131 randomly selected employees of the Elizabeth Board of Education, including teachers, administrators, clerical and support staff, security and custodial personnel. The selection of interviewees from the aggregate list of all BOE employees was made by Dr. Jimmy de la Torre, an associate professor of Educational Statistics and Measurement in the Department of Educational Psychology, Rutgers Graduate School of Education. Dr. de la Torre was retained by Pashman Stein to assist it in the conduct of this internal review. One of his functions was to randomly select, without consultation either with Pashman Stein or any members of or advisors to the EBOE, the names of employees of the EBOE to be interviewed by attorneys from Pashman Stein. Dr. de la Torre made his selection randomly from a list that included all of the employees of the EBOE. In addition to the employees randomly selected for interview, targeted interviews were conducted with current and former Board members, employees and others that had information and insight regarding various aspects of the Districts operations.

unequivocally that no one in a position of responsibility for School Board campaign fundraising events would exert pressure on employees to buy tickets to those events. In addition, they informed me that, except for two dinners in 2010 and 2011, the solicitation of ticket purchases for Board campaign fundraising events had been conducted almost exclusively by mail, from a mailing list compiled over the past decade by the "Continue the Progress" political organization. Customarily, persons solicited would purchase tickets by sending checks by mail to the return address designated on the invitation, with a small number of attendees paying at the door. Another section of this Report entitled "Recommendations" contains a list of 17 fundraising events for Board campaigns, dating back to 2003, with dates, event descriptions and ticket prices, for which attendees were solicited to purchase tickets primarily by mail.

In addition to interviewing individuals responsible for organizing Board campaign fundraiser events, lawyers from Pashman Stein interviewed 131 employees of the Elizabeth school system on the subject of donations to, and participation in, school board election campaigns. As noted above, the names of the employees selected for interviews were randomly chosen by Professor Jimmy de la Torre, an Associate Professor of Educational Statistics and Measurement in the Department of Educational Psychology at Rutgers Graduate School of Education,

without consultation with either Pashman Stein attorneys or Elizabeth School Board personnel. The 131 employees who were interviewed represent about 25% of the 532 individuals contacted to be part of this study. Professor de la Torre selected the interviewees from a list of all school board employees, that grouped the employees into four functional categories: Group A, Managers and Administrators; Group B, Teachers/Certified Staff; Group C, Skilled Assistants, Child Development Associates, Computer Technicians and Professionals; and Group D, Clerical, Skilled and Unskilled Labor, Food Service, Attendants, Security Guards and Liaisons. Of the employees interviewed, 20 were from Group A, 53 were from Group B, 23 were from Group C and 35 were from Group D.

The results of the employee interviews convincingly demonstrate that the Star Ledger's reporting of pervasive pressure on employees to donate to Board election campaigns is baseless and untrue. Of the 131 employees interviewed, 54 never have donated to a Board campaign (41%), and 77 have donated to one or more campaigns (59%). Of the 117 employees who responded to a question about volunteering for Board campaigns, 74 never

<sup>&</sup>lt;sup>4</sup> Employees contacted were requested to participate in the interviews, but were told that participation was voluntary, not mandatory. Of the 532 employees contacted, 243 did not respond, 139 declined to be interviewed and 19 were not interviewed because of scheduling and similar issues.

<sup>&</sup>lt;sup>5</sup> A separate analysis was conducted to take into account the relative sizes of the functional categories in the district. Although the numbers are different, they do not change the conclusions of this study.

have volunteered (63%) and 43 have volunteered for one or more campaigns (37%).

of the 131 interviewees, 108 stated that they were solicited to make campaign donations or to attend fundraiser events. Of the 98 employees who specifically responded to a question about mail solicitations, 93 confirmed that they had received solicitations to donate or attend fundraisers by mail (95%). Out of 66 employees who responded to a question about in person solicitations, 8 stated that they had been solicited in person (12%). Of the 62 employees who responded to a question about email solicitations, 8 stated that they had been solicited by email (11.5%) The 108 employees who acknowledged receiving solicitations to donate or attend fundraisers include 12 employees who did not identify how they were solicited, and 13 other employees who were solicited by more than one method (7 by mail and email, 5 by mail and in person and one by mail, in person and by email.)

of the 131 employees interviewed, only one employee responded affirmatively to the question whether the employee felt pressure to donate to a campaign. The other 130 employees responded in the negative, indicating that they never had felt pressure to donate to campaigns. The lone individual who acknowledged feeling pressure explained that, in connection with the dinner in 2011 honoring Superintendent Muñoz the proceeds of

which were intended to support legislative candidates in the Democratic primary election, his supervisor had left an invitation and ticket on his desk and told him that "he should go." As a result, the employee acknowledged feeling "a little pressure" to donate to that event.

Of the 127 employees responding, only one employee responded affirmatively to the question whether the employee felt pressure to volunteer to help during a campaign. The other 127 employees answered in the negative, indicating that they never had felt pressure to volunteer to assist in a campaign. The lone individual who acknowledged feeling what was described as "a little bit of [indirect] pressure," apparently was referring to participation in the 2011 Democratic primary election for the State legislature. That individual, who was the same individual that acknowledged feeling "a little pressure" to purchase a ticket to the dinner honoring Superintendent Muñoz, also acknowledged receiving several promotions after originally being hired by the Board, and stated that those promotions were unrelated to any donations or volunteer activities in which the employee had participated. also stated that he has been treated fairly during his employment by the Board, and was not aware of any preferential treatment of Board members' relatives or of senior administrators.

In addition to questioning employees about whether they had been the recipient of pressure either to donate to or volunteer to help with campaigns, lawyers from Pashman Stein asked all interviewees whether they knew of other employees who felt pressure to donate or volunteer.

Out of 124 responses, only one employee (.81%) responded affirmatively to the question whether other employees may have felt pressure to volunteer. That interviewee stated that "he thinks some \*\*\* co-workers felt pressure to volunteer" because others in the department who were politically active "tried to get others to come and help out," which he characterized as "peer pressure."

Of the 129 interviewees who responded to the question whether they knew of others who may have felt pressure to donate, seven employees (5.43%) responded affirmatively. One of those respondents said that he "thinks that some other employees felt pressure to donate or go to parties". Another respondent said she knows of one person who "feels that it is expected of her to buy tickets." Another employee stated that "there was only one colleague . . . who seemed to feel some pressure."

Another respondent said that she "knows of at least one person who may have felt pressure to make donations." Another employee "believes that some colleagues did feel pressure to make donations," but identified only one such employee who he thought

had declined to contribute. Another employee thought it was "possible" that colleagues may have felt pressure to make a contribution.

Professor de la Torre has provided to Pashman Stein his expert opinion regarding the confidence level and margin of error that are applicable to the responses to the random employee interviews. Accordingly, concerning the eight-tenths of one percent (.8%) of respondents who stated that they felt pressure to donate to campaigns, Professor de la Torre states that we have a 95% confidence level that the margin of error in the estimate of .8% who felt pressure to donate is 1.5%. Stated differently, we are 95% confident that, based on the margin of error, the percentage of employees who may have felt pressure to donate ranges from a low that is a percentage very close to zero to no more than 2.3%.

According to Professor de la Torre, at a 95% confidence level, margins of error of less than 5% also can be found for the following questions. Those questions, the estimated percentage, and the corresponding margin of error are set forth below.

<sup>&</sup>lt;sup>6</sup> A copy of Professor de la Torre's report to Pashman Stein, as well as his curriculum vitae, is attached as Exhibit F to this Report.

QUESTION	ESIMATE	MARGIN OF ERROR	
Felt Pressure to Donate	.8%	1.0%	
Knows of others pressured to	5.4%	4.0%	
donate			
Felt Pressure to Volunteer	.8%	1.0%	
Knows of others pressured to	.8%	2.0%	
volunteer			
Solicited by Mail	94.9%	4.0%	

Anecdotally, other employee responses to the interviews were informative. Twenty-nine respondents indicated that they attended campaign fundraisers because they regarded the fundraisers primarily as social events that typically included dining, dancing and celebrating with colleagues. Of the 43 employees who acknowledged volunteering to work on campaigns, 29 employees said that they elected to volunteer not because they were asked but because they wanted to participate, and ten employees specifically stated that they participated because they were supportive of the policies of the Board and/or the Superintendent. A significant number of employees indicated that their career paths as Elizabeth School System employees were unaffected by the fact that they neither donated to nor volunteered to assist in School Board campaigns.

The compelling conclusion to be derived from the random interviews of 131 Elizabeth School Board employees is that there is no pervasive pattern of pressure on employees to donate to or volunteer for School Board campaigns. The interview results overwhelmingly contradict the allegations in the Star Ledger

stories, and cast grave doubt on the credibility of the Star Ledger's sources.

#### NEPOTISM

The same series of Star Ledger articles alleges that the employment and salaries of family members of current and former Board members are improper, if not illegal.

The May 22, 2011 article states that

[a]t least 20 family members of current and former board members work for the Elizabeth school system, according to payroll records and financial disclosure forms — so many that the board in the past has lacked a quorum to vote on teachers' contracts because of the extensive conflicts of interest, resolutions show. They include brothers, sisters, brothers-in-law, mothers-in-law, cousins, wives, children and the spouses of children — who together are paid more than \$1 million in salaries.

Then, a June 9, 2011 editorial added the following:

Nepotism is rampant: at least 20 District employees are relatives of past or present Board members. The U.S. or State Attorney General's office should be all over this Board.

Contrary to what the article and editorial would have readers believe, a review of State statutes and regulations, Board policy, and a State investigation reveals that the Board's hiring and payment of Board members' relatives never violated state law or regulations, were consistent with Board policy and never caused improper votes on collective bargaining agreements. Eight of the fifteen employees related to current Board members

were hired before their relatives joined the Board. The Ledger's editorial demand for prosecution is uninformed and irresponsible.

#### 1. Nepotism Regulation and Policy

Prior to the State's adoption in 2008 of regulations governing nepotism by school boards, there was no prohibition against hiring relatives of Board members. Rather, the appointment, transfer and removal of Board employees, and renewal of their contracts were governed by N.J.S.A. § 18A:27-4.1. The relevant portions of that statute provided that such actions required the recommendation of the chief school administrator and a recorded roll call majority vote of the full membership of the Board.

On July 2008, the State Department of Education adopted a regulation, N.J.A.C. §6A:23A-6.2, requiring all school districts, as a condition of receiving State aid, to adopt a nepotism policy on or before October 1, 2008, that would prohibit any relative of a school board member from being employed by that school District. The regulation defined relative to include an individual's spouse or the individual's or spouse's parent, child, sibling, aunt, uncle, niece, nephew, grandparent, grandchild, son-in-law, daughter-in-law, stepparent, stepchild, stepbrother, stepsister, half brother or half sister, whether the relative is related to the individual

or the individual's spouse by blood, marriage or adoption, as well as a "civil union partner pursuant to N.J.S.A. 37:1-33, [and] domestic partner as defined in N.J.S.A. 26:8A-3."

The regulation also set forth three limitations on the nepotism prohibition: (a) a person employed on the effective date of the policy or the date a relative becomes a board member is not prohibited from continuing to be employed or promoted in the district; (b) a district may employ a relative of a board member with the approval of the County superintendent of schools; and (c) a district may exclude per diem substitutes and student employees from the nepotism policy.

The regulation required Districts to prohibit the chief school administrator from recommending any board member's relative to the school board unless the person is subject to one of the first two limitations above.

Finally, the Regulation required a provision prohibiting a board member who has a relative who is a member of the bargaining unit from discussing or voting on the proposed collective bargaining agreement with that unit, or from participating in negotiations, including being a member of the negotiating team. It also required a provision prohibiting a board member who has an immediate family member who is a member of the same Statewide union in another district from

participating in negotiations prior to the board's attainment of a tentative memorandum of agreement with the unit.

# 2. The Board's Nepotism Policy

Although the Board was not required to establish a suitable nepotism policy until October 2008, it passed its own resolution adopting a policy on March 16, 2006. Among the relevant provisions, the Board's original policy prohibited a board member from discussing or voting on appointment of a relative. It also required prohibitions regarding bargaining units similar to those described in the regulation, except that where a board member has an immediate family member who is out of district but in the same Statewide union, it included a provision allowing a board member to vote on the collective bargaining agreement subject to the doctrine of necessity once the tentative memorandum of agreement is established.

In March 2007, the policy was amended to prohibit, among other things, the employment of any relative of a board member, except that it did not require the discharge of someone regularly employed by the board prior to the relationship, the adoption of the policy, or the board member's election or appointment.

Subsequent revisions in March 2008, August 2008, June 2009, and June 2010 conformed the definitions of "relative" and "immediate family member" to the regulatory language and/or

excluded per diem substitutes and student employees from the nepotism policy.

# 3. No Violation of Regulation or Policy

A close examination of District records shows that no employment of a Board member's relative violates State nepotism regulations or the Board's nepotism policy. The reason is three-fold: (1) of the employees who are related to a current Board member, eight out of fifteen were hired before the member was appointed or elected to the Board; (2) of the seven relatives who were hired after the member was appointed or elected to the Board, five were hired before the policy was amended in March 2007 to prohibit employment of Board members' relatives; and (3), in the case of the two relatives hired after the member was appointed or elected to the Board and after March 2006, the hiring of those employees was not prohibited by the terms of the policy then in effect. Furthermore, since adoption of the Board's nepotism policy, Board members have, without exception, abstained from voting on a relative's employment.

#### a. Relatives of Current Board Members

#### i. Raul J. Burgos

The employment of KAREEM BURGOS (Raul's spouse) as a child development associate in early education does not violate the nepotism policy because she was first hired on September 1,

2001<sup>7</sup>, (a) before the policy was required or adopted, and (b) before Raul was appointed to the Board on November 21, 2002.

The employment of MARINA BURGOS (Raul's mother) as a former teacher of world language (now retired) did not violate the nepotism policy because she was first hired on October 28, 2002, (a) before the policy was required or adopted, and (b) before Raul was appointed to the Board on November 21, 2002.

The employment of CLAUDIA FERREIRA (Raul's sister) as a child development associate in early education does not violate the nepotism policy because she was first appointed on July 20, 2004, before the policy was required or adopted.

The employment of DANIEL FERREIRA (Raul's brother-in-law) as a child development associate in early education does not violate the nepotism policy because he was first appointed on August 24, 2004, before the policy was required or adopted.

The employment of PRISCILA GOMEZ (Raul's sister) as a child development associate does not violate the nepotism policy because she was first hired as a permanent substitute teacher on February 23, 2004 and her first regular appointment as a child development associate was on August 9, 2004, and both occurred before the policy was required or adopted.

The former employment of MICHELLE BURGOS (Raul's daughter) in the student summer maintenance program did not violate the

 $<sup>^{7}</sup>$ In analyzing allegations of nepotism, this Report considered the date of appointment and date of hire, and uses the earlier of the two.

nepotism policy because she was appointed on June 29, 2006, before the policy was required to be in effect. Moreover, the policy in effect when she was appointed did not preclude her appointment.

# ii. Armando DaSilva

The employment of ANA DASILVA (Armando's spouse) as a computer data entry associate does not violate the nepotism policy because she was first appointed as secretary on October 19, 2000, (a) before the policy was required or adopted, and (b) before Armando was appointed to the Board on November 21, 2002.

The employment of ROSA J. MARTINS (Armando's mother-in-law) as a custodian does not violate the nepotism policy because she was appointed on June 28, 2005 before the policy was required or adopted.

#### iii. John F. Donoso

The employment of MARIE DONOSO (John's cousin) as a substitute teacher does not violate the nepotism policy because cousins are excluded from the definition of a "relative" under the policy.

#### iv. Fernando E. Nazco

The employment of OLGA FAJARDO (Fernando's mother-in-law) as an attendance liaison does not violate the nepotism policy because she was first hired on September 23, 1999, before the policy was required or adopted.

The employment of MINERVA SPAGNUOLO (Fernando's sister-in-law) as a teacher-instructional coach does not violate the nepotism policy because she was first appointed as a prekindergarten assistant on July 19, 2001, (a) before the policy was required or adopted, and (b) before Fernando was appointed to the Board on July 19, 2007.

## v. Paul M. Perreira

The employment of MARVELIS PERREIRA (Paul's spouse) as a teacher-instructional coach does not violate the nepotism policy because she was first appointed as a permanent substitute teacher on September 21, 2002, and her first regular appointment was as a fifth grade teacher on September 18, 2004, and both occurred (a) before the policy was required or adopted, and (b) before Paul Perreira was appointed to the Board on June 10, 2010.

The employment of MERIDA BARQUIN (aunt of Paul's spouse) as a bilingual kindergarten assistant does not violate the nepotism policy because she was first hired as a classroom assistant on March 22, 1999, (a) before the policy was required or adopted, and (b) before Paul Perreira was appointed to the Board on June 10, 2010.

The employment of MARIA E. SORI (aunt of Paul's spouse) as a substitute lunch aide does not violate the nepotism policy because (a) she was first hired in February 2002, before the

policy was required or adopted, (b) she was re-appointed on April 15, 2010, before Paul Perreira was appointed to the Board on June 10, 2010, and (c) per diem substitutes are excluded from the policy.

# vi. Carlos M. Trujillo

The employment of DANAY BARCELO (Carlos' cousin) as a child development associate does not violate the nepotism policy because (a) he was appointed on September 5, 2006, before Carlos Trujillo was elected to the Board in April 2007, and (b) cousins are excluded from the definition of a "relative" under the policy.

# vii. Elcy Castillo-Ospina, Francisco Gonzalez and Marie L. Munn

Elcy Castillo-Ospina, Francisco Gonzalez and Marie L. Munn do not have any relatives who are current or former employees of the Board.

# b. Relatives of Former Members Who Sat on the Board between 2009 and 2011

The Star Ledger article also alleges that the employment of relatives of former Board members is improper, with particular emphasis on relatives of Rafael J. Fajardo. Therefore, examination of the nepotism issue includes employees of former members who sat on the Board over the past few years, including relatives of Mr. Fajardo.

# i. Rafael J. Fajardo

The employment of ROSA FAJARDO (Rafael's spouse) as a child development associate does not violate the nepotism policy because she was first hired as a prekindergarten assistant on October 14, 2004, before the policy was required or adopted.

The employment of MARLENE FAJARDO (Rafael's daughter) as a child development associate does not violate the nepotism policy because she was hired on July 19, 2001, before the policy was required or adopted.

The employment of MELISSA KULICK (Rafael's daughter) as a teacher-ESL-in-class support does not violate the nepotism policy because she was first hired as a teacher-ESL-self contained on November 23, 1998, before the policy was required or adopted.

The employment of OLGA FAJARDO (Rafael's sister) as an attendance liaison does not violate the nepotism policy because, as noted earlier in connection with Fernando Nazco, she was first hired on September 23, 1999, before the policy was required or adopted.

The employment of ELSA FAJARDO (Rafael's sister) as a general worker does not violate the nepotism policy because she was first appointed on October 20, 2005, before the policy was required or adopted.

The employment of ERIC KULICK (Rafael's son-in-law) as a web developer did not violate the nepotism policy because he was first hired as a computer technician on September 27, 1999, almost three years prior to his marriage to Mr. Fajardo's daughter, Melissa Fajardo, on July 28, 2002

# ii. Eddie Branquinho and Jeremiah L. Grace Eddie Branquinho and Jeremiah L. Grace do not have any relatives who are current or former employees of the Board.

#### 4. Abstentions

Furthermore, Board Meeting Minutes show that when the relative of a Board member was initially appointed to a position in the District after the member joined the Board and was related to the member at that time, that member uniformly abstained from voting on the appointment except in the following six instances, each of which predated adoption of the nepotism regulation and adoption of the Board's nepotism policy:

- MARINA BURGOS' appointment on November 21, 2002
- PRISCILA GOMEZ's appointment on March 18, 2004<sup>8</sup>
- CLAUDIA FERREIRA's appointment on July 20, 2004<sup>9</sup>
- DANIEL FERREIRA's appointment on August 24, 2004<sup>10</sup>

<sup>&</sup>lt;sup>8</sup>Raul Burgos' vote was changed to "abstain" on April 10, 2006 because at the time of the initial vote he had not been aware that Priscila was listed among the people to be appointed.

<sup>&</sup>lt;sup>9</sup>Raul Burgos' vote was changed to "abstain" on April 10, 2006 because at the time of the initial vote he had not been aware that Claudia was listed among the people to be appointed.

- OLGA FAJARDO's appointment on October 14, 1999<sup>11</sup>
- MARLENE FAJARDO's appointment on July 19, 2001

### 5. Employees Were Qualified

In addition, a review of District files and State

Department of Education records reveals that, at the time these

Board members' relatives were first appointed or promoted to new

positions with the District, they held all of the mandatory

degrees, certifications, and/or educational credentials required

by the Board and were fully qualified for the jobs.

## 6. Salaries of Relatives of Board Members

Although the Star Ledger states that employees who are related to Board members "together are paid more than \$1 million in salaries" and implies that such employees receive preferential treatment in terms of pay, the fact is that all salaries are covered by collective bargaining agreements. As a result, employees' salaries, pay increases, and stipends follow predetermined guidelines that apply to all coworkers who have the same job, the same degrees and credentials, and the same level of seniority. The current salaries paid to relatives of Board members are listed below:

<sup>&</sup>lt;sup>10</sup>Raul Burgos' vote was changed to "abstain" on April 10, 2006 because at the time of the initial vote he had not been aware that Daniel was listed among the people to be appointed.

<sup>&</sup>lt;sup>11</sup>Rafael Fajardo's vote was changed to "abstain" on April 10, 2006 because at the time of the initial vote he had not been aware that Olga was listed among the people to be appointed.

<sup>&</sup>lt;sup>12</sup> The salaries of all current employees related to Board members actually total \$736,896.00.

EMPLOYEE	SALARY
Marina Burgos*	\$72,490.00
Claudia Ferreira	\$35,773.00
Daniel Ferreira	\$35,773.00
Priscila Gomez	\$33,360.00
Michelle Burgos*	\$5.15 per hour
Ana DaSilva	\$53,748.00
Rosa J. Martins	\$52,532.00
Marie Donoso	\$61,676.00
Rosa Fajardo	\$35,773.00
Marlene Fajardo	\$35,773.00
Melissa Kulick	\$54,789.00
Olga Fajardo	\$45,822.00
Elsa Fajardo	\$12,106.00
Eric Kulick	\$66,611.00
Minerva Spagnuolo	\$70,864.00
Marvelis Perreira	\$67,325.00
Merida Barquin	\$40,480.00
Maria E. Sori	\$7.25 per hour
Danay Barcelo	\$34,491.00

<sup>\*</sup>No longer employed by the District.

## 7. Department of Education Investigation

A State investigation in response to an anonymous complaint filed with the New Jersey Department of Education provides confirmation that, as of January 2006, the Board's actions had not resulted in any improper promotion practices based on nepotism. On May 19, 2005, the New Jersey Department of Education's Office of Compliance Investigation (OCI) received the referral of an anonymous complaint alleging in relevant part that long-term employees were passed over because the positions were given to friends and family of board members and staff. In its January 2006 report, OCI investigators found that "there is

no basis to the charge that staff members were promoted due to nepotism."

## 8. Doctrine of Necessity

By stating that the Board had lacked a quorum to vote on teachers' contracts because of Board member disqualifications, the Star Ledger implies that the Board acted improperly. That implication is incorrect.

When a quorum of Board members have disqualifications in a particular matter that would otherwise prevent the Board from acting, they may invoke what is known as the "doctrine of necessity" in order to vote despite the disqualification. The doctrine is firmly established in New Jersey decisional law, and its application to the school board context has been refined in a series of decisions and advisory opinions of the School Ethics Commission (Commission).<sup>13</sup>

On February 25, 2003, the Commission adopted a resolution clarifying how school boards and charter schools must invoke the "doctrine of necessity" when a quorum of the board has disqualifications that prevent the board from acting on a matter required to be voted upon, such as a collective bargaining agreement. The resolution requires school boards that must

<sup>13</sup> Downs v. Mayor and Council of South Amboy, 116 N.J.L. 511, 515 (E. & A. 1936); Pyatt v Mayor and Council of Borough of Dunellen in Middlesex County, 9 N.J. 548; 89 A.2d 1, 4 (1952); Griggs v. Princeton Borough, 33 N.J. 207, 220-21 (1960); Fanwood v. Rocco, 33 N.J. 404, 417 (1960); In the Matter of Edward DeYoung, SEC Decision C07-96; SEC Advisory Opinions A03-98 and A13-02.

invoke the doctrine to "adopt a resolution setting forth that they are invoking the Doctrine, the reason for doing so and the specific nature of the conflicts of interest." They must also "read the resolution at a regularly scheduled public meeting, post it where it posts public notices for 30 days and provide the Commission with a copy."

As noted above, the Commission specifically anticipated that disqualifications might obstruct a board from acting on a matter required to be voted upon, such as a collective bargaining agreement, and adopted a methodology for resolving such issues. Board records show that on the four occasions that the Board has faced disqualifications that would otherwise prevent it from achieving a quorum with regard to a matter that required a vote, it properly adopted a resolution meeting all of the Commission requirements. Consequently, neither the existence of Board members' disqualifications nor their method of resolving them is untoward, unexpected, or improper.

# 9. Olga Fajardo's Employment Complies with Board and State Policy

Finally, the Star Ledger suggests that the Board's employment of former Board President Rafael Fajardo's sister as a community attendance liaison for the preschool program is improper because the New Jersey Department of Education did not

 $<sup>^{14}\</sup>mathrm{Board}$  resolutions dated March 16, 2006, April 10, 2006, November 20, 2008, and October 13, 2011.

authorize funding for the position. Although the New Jersey
Department of Education decided not to fund the position because
the preschool program was "voluntary," its decision does not
suggest that her continued employment and compensation are
misguided or wrongful. The District is free to consider
evidence that encouraging preschool attendance is vital to the
program's success and there is nothing improper about its
decision to continue her employment if the Board pays her
salary. Currently, Olga Fajardo serves as a community
attendance liaison for Schools #12, 14 and 27, which serve only
grades K-8 and not pre-school, Pre-K Schools #50, 51 and 52, and
also is the responsible attendance liaison for the Pre-School
special needs population.

## 10. Conclusion

The evidence demonstrates that the Board's employment of members' relatives as described above does not violate the Department of Education regulation or the Board's nepotism policy.

It is also noteworthy that only 12 of those employees were hired or appointed after their respective relatives became a member of the Board. Given that the total number of employees in the District as of September 26, 2011 was 3825, the 12 individuals represent only 0.31 percent of all District employees.

As this Report explains, until 2008 Department of Education regulations did not prohibit school districts from hiring qualified relatives of school board members. Prior law and regulations apparently reflected the Legislature's and the Department's acknowledgement that in urban communities the school system historically was a vital source of employment for city residents. Presumably, Elizabeth's past practice of allowing qualified relatives of Board members to be hired is comparable to that of other New Jersey cities, a comparison not attempted by the Ledger articles. The change in the law clearly was salutary and in the public interest. But the harsh indictment of a lawful past practice, without a context reflecting the experience in other urban communities, is skewed and unjustified.

## THE STAR LEDGER SOURCES

"Accuracy entails honesty in sourcing. Our reputation for that accuracy, and for freedom from bias, rests on the credibility of our sources." Reuters, Handbook of Journalism

This independent investigation was commissioned by the Board as a consequence of the May 22, 2011 lead Sunday Star Ledger article, authored by staff writer Ted Sherman, and an editorial published the next day. In the May 22 article, Mr. Sherman represents that the facts on which his reporting is based came from lawsuits, internal documents and interviews. It appears from a review of the article that internal documents primarily were used to support allegations of nepotism and to determine the amount of money raised by the Board and contributed by others. The allegation that the Board has inappropriately pressured Board employees to contribute to elections appears to be supported almost entirely by interviews with identified sources and lawsuits filed by current and former Board employees. Seven sources are identified by name.

The May 23 editorial, based entirely on Mr. Sherman's investigation and May 22 article, was unsparing in its depiction of the Board, ratcheting up the rhetoric considerably and calling for the United States Attorney's Office and the Attorney General's Office to initiate criminal investigations. That

editorial, entitled "Needed: Criminal Investigation in Elizabeth", offered the following portrayal of the Board:

The foul odor in Elizabeth these days cannot be blamed on oil refineries along the Turnpike. It is from the ethical rot created by the city's Board of Education.

Board members in Elizabeth routinely solicit political donations from teachers and other school employees. They are using the district's 4,000 employees as their personal slush funds, building a heavy-handed political machine that is based on intimidation.

That is sleazy at a minimum. It becomes criminal if employees are coerced into giving money by the threat of punishment or the promise of reward. And that is exactly what employees of the district say is happening, as staff writer Ted Sherman reported in The Sunday Star-Ledger.

Several lawsuits making that charge have been quietly settled, with a convenient gag order attached. And several authoritative sources, including a former superintendent and a former principal, say that is precisely how the board does its business.

"If you don't buy tickets, you are not promoted to jobs you may want," said Frank Cuesta, the former principal, now a city councilman. "You are basically shut out of the system, no matter how competent you are."

These are serious charges that merit a criminal investigation by U.S. Attorney Paul Fishman, or Attorney General Paula Dow, or both offices working in tandem.

Their challenge will be to prove the coercion. A wink and nod are not enough. Investigators need to explicitly link the

district's treatment of an employee with his or her response to the request for money.

It will come as no surprise if they find that smoking gun. Because judging by what we know of this board, its members have lost their ethical bearings entirely. The signs of this are familiar to anyone who follows New Jersey politics.

A copy of The Star Ledger May 23, 2011 editorial is attached as Exhibit G to this Report.

The Star Ledger news story and editorial, knowingly or unknowingly, failed to disclose that each of the identified sources relied on in the story was compromised by bias, either because they have documented adversarial relationships with the Board or are politically allied with Senator Lesniak and Mayor Bollwage. It is unclear whether the May 22 Article relied on anonymous sources, but there was no attempt to provide readers with background information about any such sources, to the extent they were used. The failure of The Star Ledger to document the bias of its sources, coupled with its failure to provide political and educational context, resulted in a presentation that was outrageously unfair, inaccurate and inconsistent with recognized principles of responsible journalism.

## 1. Ethical Guidelines for Journalists

There is not one mandatory Ethics Code or Code of Conduct for journalists. There are, however, certain published

standards that serve as guidelines for newspapers and professionals in the field.

In 1997, the Committee of Concerned Journalists (CCJ), comprised of reporters, editors, publishers, owners and academics, released a Statement of Shared Purpose. That Statement came "[a]fter four years of research, including 20 public forums around the country, a reading of journalism history, a national survey of journalists, and more." See http://www.journalism.org/resources/principles.

The Statement of Shared Purpose, in its introduction, states that "[t]he central purpose of journalism is to provide citizens with accurate and reliable information they need to function in a free society." The Statement identified nine "Core Principles" for journalists, including that "Journalism's first obligation is to the truth" (principle 1) and that "its essence is a discipline of verification" (principle 3).

The obligation of journalists to speak truthfully, as defined in the first principle, "is a process that begins with the professional discipline of assembling and verifying facts."

The journalist must give a "fair and reliable account" of his or her investigation and "should be as transparent as possible about sources and methods so audiences can make their own assessment of the information."

The third principle relies on journalists to verify information. It calls for "a transparent approach to evidence-precisely so that personal and cultural biases would not undermine the accuracy of their work . . . Seeking out multiple witnesses, disclosing as much as possible about sources, or asking various sides for comment, all signal such standards. This discipline of verification is what separates journalism from other modes of communication."

180

The Society of Professional Journalists (SPJ), whose mission it is to protect and improve journalism, also publishes a Code of Ethics, which is "voluntarily embraced by thousands of journalists . . . and is widely used in newsrooms and classrooms as a guide for ethical behavior." See <a href="http://www.spj.org/">http://www.spj.org/</a>
<a href="http://www.spj.org/">ethicscode.asp</a>. The SPJ Code of Ethics was adopted by the 1996
SPJ National Convention after months of study and debate among the Society's members. The Code provides that journalists must "[a]lways question sources' motives before promising anonymity" and "identify sources whenever feasible. The public is entitled to as much information as possible on sources' reliability."

The American Society of Newspaper Editors (ASNE) publishes a Statement of Principles that was originally adopted in 1922 as the "Cannons of Journalism" and later revised in 1975 and renamed the Statement of Principles. See <a href="http://asne.org/kiosk/archive/principl.htm">http://asne.org/kiosk/archive/principl.htm</a>.

ARTICLE IV provides: "Truth and Accuracy. Good faith with the reader is the foundation of good journalism. Every effort must be made to assure that the news content is accurate, free from bias and in context, and that all sides are presented fairly." The ASNE states that the principles "are intended to preserve, protect and strengthen the bond of trust and respect between American journalists and the American people".

Many newspapers and journals have their own Code of Ethics.

Although I have not located the specific code followed by Star

Ledger reporters, it presumably is similar to those cited in this Report.

Reuters publishes a handbook for journalists. See <a href="http://handbook.reuters.com/extensions/docs/pdf/handbookofjournalism.pdf">http://handbook.reuters.com/extensions/docs/pdf/handbookofjournalism.pdf</a>). The preamble to the Code states that "[a]s journalists . . . we have additional responsibilities if we are to fulfill the highest aspirations of our profession - to search for and report the truth, fairly, honestly and unfailingly." On sourcing, the Reuters guideline provide:

- "Accuracy entails honesty in sourcing. Our reputation for that accuracy, and for freedom from bias, rests on the credibility of our sources."
- "Use named sources wherever possible because they are responsible for the information they provide, even though we remain liable for accuracy, balance and legal dangers."

The Associated Press also publishes standards and practices for its journalists to follow. See <a href="http://www.ap.org/">http://www.ap.org/</a>
<a href="mailto:newsvalues/index.html">newsvalues/index.html</a>. The AP prides itself on "bringing truth to the world" and goes to "great lengths, overcome[s] great obstacles - and, too often, ma[k]e great and horrific sacrifices - to ensure that the news [is] reported quickly, accurately and honestly." In transmitting news with the highest standards of integrity, the AP "abhor[s] inaccuracies, carelessness, bias or distortions."</a>

The Record, located in Hackensack, New Jersey, also acknowledges that "its staff members should perform their jobs within the prescribed ethical guidelines outlined in [a] code." The Code provides that the use of material attributed to an anonymous source "can harm the credibility of the paper." The Record, therefore, strongly encourages reporters to persuade their sources to speak for attribution." But if the source, for whatever reason, cannot be named, the Record "should tell [their] readers as much as possible about them, their position, political party, town, or age, and why they insist on anonymity." It may not always be possible to disclose source information, but the decision of whether to grant anonymity should take into account, among other things, "[w]hether the source has personal biases which color his or her comments on an issue, and which the reader ought to know."

While there is not one universal code of journalism ethics, the basic core principles of responsibility, truth and accuracy, independence, impartiality, disclosure of sources, disclosure of bias and verification of information seem to be at the heart of all journalist codes. It is with those principles in mind that I discuss the sources identified by The Star Ledger in its reporting of political pressure allegedly imposed by the Board on employees within the district.

#### 2. The Sources

The Star Ledger's May 22, 2011 article identified only the following seven sources: Frank Cuesta, Louis Alt, Ronald Matlosz, Thomas Dunn, Jr., Ronald Davidson, Patti Gallante and Eddie Branquinho.

#### a. Frank Cuesta

Frank Cuesta is a recently retired Elizabeth Board of Education Principal and a long-standing Elizabeth City Councilman. He is the only source cited in both the May 22 article and May 23 editorial, and that editorial characterizes him as an authoritative source.

He was identified in both the news story and the editorial as a former principal and present Councilman. Both the article and editorial quoted him as saying: "If you don't buy tickets, you are not promoted to jobs you may want. You are basically shut out of the system, no matter how competent you are." Not a

word was said about either Mr. Cuesta's long and public alliance with Senator Lesniak and Mayor Bollwage or his equally long and public adversarial relationship with the Board.

Elizabeth's City government is presided over by Mayor
Bollwage and nine council members, six of whom run from wards
and three of whom are "at large." Mr. Cuesta has been an atlarge councilman since 2000, and has been publicly aligned with
Mayor Bollwage since that time.

Mr. Cuesta was President of the City Council in December 2005 and supported Ordinance 3774, which was adopted on December 27 and authorized the below-market sale of the New Jersey Transit Property to Trumbull Street Business Center, an LLC owned by long time Bollwage supporter Luis Rodriguez. As noted earlier in this Report, that Ordinance was the subject of bitter litigation filed by the Board against the City Council, which in turn, as the Star Ledger then observed, led Senator Lesniak to retaliate against the Board by seeking an audit of Board finances and a monitor to oversee the District's spending.

On January 25, 2006, less than one month after Mr. Cuesta presided over the City Council vote to adopt Ordinance 3774, Senator Lesniak and Mayor Bollwage hosted a fundraiser in honor of Mr. Cuesta and his "successful year as President of the Elizabeth City Council." Luis Rodriguez was listed as Chairman

of the Host Committee. A copy of an invitation to that fundraiser is attached as Exhibit H to this Report.

Similarly, on February 5, 2009, Senator Lesniak and Mayor Bollwage again hosted a fundraiser in honor of "Councilman Frank J. Cuesta". A copy of an invitation to that fundraiser is attached as Exhibit I to this Report.

Recently, Mr. Cuesta spoke at a public meeting organized by Education Watchdogs, an organization subsidized in part by Senator Lesniak, whose essential purpose appears to be to oppose the Elizabeth Board of Education. At that meeting Mr. Cuesta publicly introduced Senator Lesniak to those in attendance, after which Senator Lesniak publicly referred to Mr. Cuesta as the "next Superintendent" of the Elizabeth School System.

Not only has Mr. Cuesta been aligned with Mayor Bollwage and Senator Lesniak for many years but, along with Ronald Matlosz and Louis Alt, two of the other seven identified sources, he has had an adversarial relationship with the Board dating back at least to 2007.

In September 2007, Mr. Cuesta mass-mailed a letter to students and parents alleging that he was transferred and suffered a reduction in salary simply because he endorsed three candidates who ran and lost to the "Continue the Progress" slate

in the April 2007 Board of Education election. <sup>15</sup> A copy of the September 11, 2007 letter is attached to this Report as Exhibit J.

#### b/c. Louis Alt; Ronald Matlosz

Louis Alt and Ronald Matlosz are recently retired Elizabeth Board of Education Vice Principals. They both have long-standing adversarial relationships with the Board.

In November 2007, three and one-half years before the Ledger article was published, Mr. Cuesta, Mr. Alt and Mr. Matlosz, along with Vito Nufrio and James Feehan filed unfair labor charges against the Board. More precisely, the charges were brought by the Elizabeth Administrative and Supervisory Council (EASC), which is the Union that then represented Principals, Vice Principals and Supervisors. At the time the charges were filed, Nufrio was the president of the EASC, Matlosz was the vice president, Feehan was the treasurer and Cuesta and Alt were described as being members and "active" in the association.

The statement of charges describes the unfair labor practice charge in the following manner:

<sup>&</sup>lt;sup>15</sup> According to authoritative sources at the Board of Education, Mr. Cuesta was transferred to the position of Principal of Alexander Hamilton Middle School because of an administrative belief that Alexander Hamilton would benefit from stronger leadership. Mr. Cuesta's base salary was not reduced. But because his new position, unlike his former position, involved regular school hours rather than an extended day schedule, his aggregate annual compensation was reduced by \$592 to reflect the shorter working day in his new position.

- On or about April 17, 2007, there was a statewide election for school board members, including respondent, Elizabeth Board of Education.
- Prior to the election, the EASC, as an association, supported candidates for the Board of Education, who were not incumbents.
- Vito Nufrio, Ronald Matlosz and James Feehan, as officers in the association, were active in the charging party's support for non-incumbent candidates. Francisco Cuesta and Louis Alt were also active in the charging party's support for the non-incumbent candidates.
- The incumbent candidates, not supported by the EASC, were reelected in the April, 2007 school board election.
- After the election, unit members were informed the incumbents and the superintendent of schools intended to retaliate against the EASC for the position it took in the school board election.
- At its meeting on June 28, 2007, respondent acted to transfer Vito Nufrio, Ronald Matlosz, James Feehan and Francisco Cuesta. At the same meeting, Louis Alt was removed from his position of vice principal and returned to his former position of supervisor. Respondent also acted to withhold the salary increments of Vito Nufrio, Ronald Matlosz and James Feehan. The transfers are currently before the Commission as contested transfer matters and the increment withholdings have been presented as grievances and an arbitrator has been assigned.
- Respondent's actions to withhold the salary increments and the transfers of the above named unit members is retaliatory and constitutes anti-union animus. Respondent's actions constitute an unfair labor practice.

The remedy sought included the restoration of salary increments only to Nufrio, Matlosz and Feehan; reversals of the

transfers of Nufrio, Matlosz, Feehan and Cuesta; and the reassignment of Alt as a vice/assistant principal. 16

The EASC withdrew these Unfair Labor Charges in April 2010. The contested transfer and increment-withholding grievances referred to in the body of the Unfair Labor Charges likewise were withdrawn. Notably, in July 2011, Phillip Linder, Esq., acting on behalf of both Mr. Matlosz and Mr. Alt, filed separate but virtually identical lawsuits against the Board asserting discrimination and retaliation claims.

#### d. Thomas Dunn, Jr.

Thomas Dunn, Jr. was the Superintendent of the Elizabeth School System in the late 1980's through the early 1990's and then again from 1996 until 2005, when he was replaced by Pablo Muñoz. He is referred to in both the May 22 article and the May 23 editorial as a former Superintendent. In the editorial, he also is referred to, although not by name, as an "authoritative source".

While the May 22 article asserts that Mr. Dunn was "forced out" in 2005 there is no attempt to describe for the reader the circumstances surrounding Mr. Dunn's ouster by the Board and whether it created animosity such that Mr. Dunn might have a personal bias that could color his comments.

<sup>&</sup>lt;sup>16</sup> The statement of charges and remedy demand transposed Mr. Alt's prior and new positions. His <u>prior</u> position was Supervisor of Grants; his <u>new</u> position was Vice Principal of Holmes Middle School. Obviously, he sought to be reassigned as Supervisor of Grants.

My investigation reveals that Mr. Dunn's separation from the Board was far from amicable. Although he was not fired, he was informed by the Board in 2005 that he did not have the support of the Board and that therefore his contract would not be renewed. At the time, he communicated his view that Mr. Fajardo was to blame for his non-renewal and he made no secret of his bitterness toward his successor, Pablo Muñoz. To this day, he does not speak to Mr. Muñoz.

#### e. Ronald Davidson

Ronald Davidson is a recently retired Elizabeth Board of Education Vice Principal. He also has a long-standing adversarial relationship with the Board.

The only lawsuit specifically identified in the May 22 article is one filed by Mr. Davidson. The article quotes at length from that lawsuit wherein Mr. Davidson generally alleges that when he yielded to pressure and purchased political fundraising tickets he was promoted and became a tenured administrator, but when he stopped contributing to political events he suffered from retaliatory action and was ultimately suspended.

The article failed to disclose, however, that in February 2007, long before Mr. Davidson filed his lawsuit, the Board filed a tenure action against him seeking his dismissal. There were four charges in the tenure action. Three of the charges

concerned Mr. Davidson's alleged refusal to permit certain employees with physical disabilities to use an elevator key in order to avoid stairs. The fourth charge concerned a sexual harassment allegation advanced by an employee against him. The federal court complaint, referred to in the May 22 article, was not filed until June 2007. The tenure charges and the lawsuit were settled together in the fall or early winter 2007. Mr. Davidson also challenged an earlier decision by the Board to withhold certain salary increases and that challenge also was settled as part of the agreement that resolved the tenure charges and the allegations in his lawsuit.

#### f. Patti Gallante

Patti Gallante is a recently retired Elizabeth Board of Education teacher. She was quoted in the May 22 article as claiming that she and others felt pressure to purchase tickets to political events. She too has a history of being oppositional to the Board.

Ms. Gallante is active in an organization called "The Elizabeth Education Organizing Committee" (EEOC), which is a local chapter of a Trenton-based committee called the "Statewide Education Organizing Committee". She is listed as a "leader" and as the Treasurer of the organization on the EEOC's website.

The EEOC has been vocal in its opposition to the Board. As an example, on the heels of the series of articles about the

Board published by the Star Ledger, the EEOC publicly called on the United States Attorney's Office to investigate the allegations of misconduct; it also called on the Department of Education to remove Board members and it demanded that the current leadership of the Board be held accountable.

Ms. Gallante also has personally participated in public protests against the Board. In the spring of 2011, prior to the local elections that took place in May, Ms. Gallante was seen picketing in front of Jefferson Academy, along with about ten other people who were protesting against the Elizabeth Board of Education. An employee who saw Ms. Gallante at this protest was told by one of the protesters that the organization had a branch in Trenton. Given Ms. Gallante's involvement with the EEOC, which has a branch in Trenton, and the EEOC's publicly communicated concerns about the Board, it is likely that the protest at which she was seen was organized by the EEOC. Ms. Gallante is an officer of an organization that has been critical of the Board and was seen protesting against the Board by no means disqualifies her as a source. It does, however, suggest that she might have something less than an objective perspective.

#### g. Eddie Branquinho

Eddie Branquinho was never employed by the Elizabeth Board of Education. He was a Board member for less than a year from

2008 to 2009 and I am informed that he was not regularly in attendance during that time period. He replaced a former Board member, Tony Monteiro, during Mr. Monteiro's term and he therefore had to run for re-election less than a year later.

During his brief tenure on the Board, Mr. Branquinho and then Board member Rafael Fajardo had some disagreements that created ill-will. In particular, there was an occasion on which the Board needed to hire an investigator and Mr. Branquinho strongly supported the retention of an investigator that he knew and liked. A different investigator was retained, and Mr. Branquinho accused Mr. Fajardo of interfering with the appointment of the investigator he had supported. Whether as a consequence of that incident or not, Mr. Branquinho, on his own, ran for re-election against the "Continue the Progress" slate, and he lost. Thus, although Mr. Branquinho was a member of the Board for only a short time, during his tenure his relationship with Mr. Fajardo and the incumbent Board clearly became adversarial.

\* \* \*

Undeniably, each one of the Ledger's identified sources had an obvious bias and/or adversarial relationship with the Board, a Board member or the Superintendent. None of those biases or adversarial relationships was disclosed by the Ledger.

In view of the severity of the allegations in the news story and the harshness of the rhetoric in the editorial — which included a demand for criminal investigations — the Star Ledger's knowing or unknowing reliance on obviously biased sources is problematic and disappointing. No objective reader, informed of those biases, could rely on the Star Ledger's reporting and commentary with confidence. The unreliability of the Ledger news story, which served as the foundation for the cruel and irresponsible Editorial the following day, has caused undeserved damage to the reputation of an outstanding urban school district.

## RECOMMENDATIONS

Because the focus of the Star Ledger articles was on participation by Elizabeth School Board employees in political fundraising activities, I have collected information concerning fundraising events for Elizabeth School Board and other elections over the past several years at which there was significant attendance and participation by School Board employees. Of the 19 events for which information was available, 15 events were sponsored by the "Continue the Progress" organization, its affiliate "The Fajardo Team", or a sub-committee of those organizations, and the funds raised at those 15 events were intended to be used to support candidates for the Elizabeth Board of Education. Those 15 events, their titles, ticket prices and dates are set forth below:

- Reception sponsored by Committee to Re-elect
   Cascio, DaSilva & Burgos, hosted by Armando DaSilva, March 27,
   2003, \$100;
- 2. "Go Hawaiian" Celebration, honoring candidates

  Moore, Fajardo and Gonzalez, sponsored by The Fajardo Team, June

  17, 2005, \$35;
- 3. Reception sponsored by The Fajardo Team to honor Board President Rafael Fajardo, June 15, 2005, \$100;

- 4. Dinner and Dance Reception sponsored by Continue the Progress, honoring Elizabeth Board of Education Members and special guests, November 4, 2005, \$50;
- 5. Campaign Kick-Off (Dinner and Dancing) for Reelection of DaSilva, Cascio & Burgos, sponsored by Continue the Progress, February 10, 2006, \$50;
- 6. Special Night of Italian food, Dancing and Prizes (no speeches), sponsored by Marie Munn, Tony Monteiro, Carlos Trujillo and Continue the Progress, March 30, 2007, \$50;
- 7. Dinner and Dancing Celebration, honoring Tony Monteiro, Marie Munn and Carlos Trujillo, sponsored by Continue the Progress, May 18, 2007, \$60 (\$75 at the door);
- 8. "The Thriller" Costume Party Fundraiser, sponsored by Continue the Progress, October 26, 2007, \$50;
- 9. Campaign Kick-Off (Dinner and Dancing) for Reelection of Rafael Fajardo, Francisco Gonzalez and Fernando Nazco, sponsored by The Fajardo Team, February 1, 2008, \$60;
- 10. VIP reception, in support of Re-election of Francisco Gonzalez, Rafael Fajardo and Fernando Nazco, sponsored by The Fajardo Team, April 9, 2008, \$250;
- 11. Get Out the Vote Fundraiser, in support of Reelection of Francisco Gonzalez, Rafael Fajardo and Fernando Nazco, sponsored by The Fajardo Team, April 11, 2008, \$60;

- 12. Fall Festival Fundraiser (Dinner and Dancing) honoring Chris Christie, Candidate for Governor, sponsored by Continue the Progress and Members of the Elizabeth Board of Education, October 2, 2009, \$75;
- 13. Campaign Kick-Off Fundraiser, (Dinner and Dancing) sponsored by Francisco Gonzalez, Tony Monteiro and Continue the Progress, March 5, 2010, \$75;
- 14. Holiday Cocktail Cheer, sponsored by Continue the Progress, December 20, 2010, \$50;
- 15. Holiday Celebration (Dinner and Dancing), sponsored by Tony Monteiro and Continue the Progress, December 2, 2011, \$100.

I am informed by Tony Monteiro, who was involved in the organization and planning of those events, that the solicitation of ticket purchases for those events was done by mail from a mailing list that Mr. Monteiro has compiled over the years, and that in-person solicitation of ticket purchase was minimal and informal. Mr. Monteiro did not exclude the possibility that employees of the District might discuss prospective fundraising events with each other, or inquire of colleagues and friends whether they planned to attend, in view of the significant emphasis on socializing, dining and dancing that characterizes most of the events. But he emphasized that the vast majority of ticket purchases were the result of checks mailed to his office,

the address for which served as the return address on the invitations.

Tickets to two other of the nineteen events also were sold predominately by mail, although the beneficiaries were different. On May 12, 2010, Rafael Fajardo, Tony Monteiro and the Victory 2010 Committee sponsored a \$500 per person fundraiser, the proceeds of which were to be used in the forthcoming elections for the Elizabeth City Council. Solicitations to buy tickets to that fundraiser were sent to individuals on the mailing list compiled by Mr. Monteiro as well as by email and, as with the fundraisers for School board elections, personal solicitation of ticket purchases was minimal. Similarly, a Gala dinner and dance event honoring Board of Education President Carlos Trujillo and Volunteers of the Year, sponsored by Victory 2011, was held on February 4, Tickets were \$150, and were \$250 to attend a special VIP reception. Proceeds from the event were to be used for the 2011 Union County Freeholder election, and solicitations of ticket purchases were conducted predominately by mail.

Two fundraising events - one in 2010 and one in 2011 - relied primarily on host committees rather than mail solicitation to solicit ticket sales. Because in my view the composition of those committees, consisting primarily of administrators and other School System employees, conveyed an

impression of excessive involvement by the Elizabeth School system in the organization of the two events, I am recommending that the Board of Education take action to prevent any such impression of excessive involvement in a political fundraising event from occurring in the future.

The first such event was a testimonial dinner on September 24, 2010 honoring Rafael Fajardo, who had resigned from the Board in June 2010, for his seventeen years of service as a member of the Elizabeth Board of Education. The ticket price was \$150. The sponsor was a political committee called Victory 2010, and the proceeds of the dinner were donated to the political campaigns of candidates for election to the Elizabeth City Council in November 2010, including Diego Padilla, Carlos Lucio, Armando DaSilva, Carlos Cedeño, Lester Dominguez and Marlene Abitanto.

Unlike almost all prior fundraisers for which tickets were sold by mail, tickets to the dinner honoring Mr. Fajardo were sold primarily through a 58 member host committee whose names were listed on the Dinner invitation. Most of the Host Committee members were high-ranking employees of the Board of Education, including several Assistant Superintendents, numerous principals and vice-principals, and other administrative and supervisory employees of the Board. Organizers of the Dinner explained that they anticipated that the use of a Host Committee

would increase the number of tickets sold and would enable organizers of the Dinner to be better informed about the progress of ticket sales than would have been possible if tickets were sold by mail. Approximately five-hundred tickets were sold for the dinner honoring Mr. Fajardo.

The second such fundraising event was a testimonial dinner honoring Superintendent Pablo Muñoz on May 21, 2011. The ticket price was \$175. The sponsors of the Dinner were a political committee called Democrats for Change 20th, as well as Rafael Fajardo, Tony Monteiro, Rose Carreto and Carlos Cedeño. As with the Dinner honoring Mr. Fajardo, the Dinner honoring Superintendent Muñoz had a Committee of seventy-eight members, most of whom were high-ranking officials of the Elizabeth School District, including one Assistant Superintendent, several principals and vice-principals and numerous supervisory and administrative personnel. An initial email to potential members of the Host Committee was sent by a Committee Co-Chair and addressed to the Elizabeth School District email address of the recipients, with instructions that future correspondence should be conducted on personal email accounts. Proceeds of the dinner were to be used in the legislative primary campaign for District 20 in support of Senate candidate Jerome Dunn and Assembly candidates Tony Monteiro and Carlos Cedeño. Approximately six hundred dinner tickets were sold.

From my perspective, the issue raised by both the dinner honoring retired Board member Rafael Fajardo and the dinner honoring Superintendent Pablo Muñoz is that the membership of the Host committees, dominated as it was by prominent supervisory employees of the Board of Education combined with the identity of the honorees, created the impression that the Board of Education itself was connected with those fundraising events. I am informed by the organizers of both events that they were organized and executed completely independently of the Elizabeth Board of Education. Nevertheless, appearances matter, and the primary educational mission of the Board of Education can be compromised if election fundraising events are organized in a manner that implies that the events enjoy the support and imprimatur of the Board of Education.

However, as a matter of constitutional law, public employees have a qualified First Amendment right of free speech that enables them to participate in election campaigns, notwithstanding their public employment. In <a href="Pickering v. Board">Pickering v. Board</a> of Education, 391 U.S. 563 (1968), the United States Supreme Court unequivocally rejected the contention that school teachers may constitutionally be compelled to relinquish First Amendment rights to comment on matters of public interest relating to the public schools that employ them. At the same time, the Court acknowledged that public employers have interests in regulating

the speech of employees to the extent that speech adversely affects the employer's ability to effectively perform the public service in which it is engaged. The Court advocated the use of a balancing test that weighed the First Amendment interests of the employee against the public responsibilities of the employer.

Guided by the balancing test applied by the United States Supreme Court in Pickering and other cases, I believe the Elizabeth Board of Education has the constitutional authority to restrict employees from associating publicly in the organization of political fundraising events in a manner that conveys the impression that a specific event enjoys the support or sponsorship of the Board of Education. The Board's intervention, however, should not limit the right of Board employees to donate to or attend political fundraising events or to assist in their organization and execution. But the Board should recognize and address the fact that the publication of the Host Committee membership of a political fundraising event consisting of a substantial number of high-ranking Board of Education employees can be viewed as incompatible with the Board's primary mission of educating the school children of Elizabeth. Similarly, the selection of a currently serving high-ranking supervisory employee of the District as the honoree at a political fundraising event also can imply Board of Education support or identification with the event.

In addition, the Board should prohibit, as required by law, the solicitation of campaign contributions on school property or with the use of any school equipment or facilities, including the District's email network. Any and all campaign activities by District employees must be conducted during non-working hours and not on school property.

Obviously, because the members of the Board of Education are elected officials, their individual involvement in electoral politics is necessary and inevitable. But the Board of Education itself, whose overarching mission is to implement educational policies best designed to assure high-quality education for the children of Elizabeth, appropriately can set standards designed to insulate the Board as an institution from involvement, or even the appearance of involvement, in political fundraising events or other political campaign activity.

#### VII

#### CONCLUSION

During the second-half of the twentieth century, New Jersey compiled a dismal record of funding the educational needs of students in our poorest urban school districts. Relying primarily on property taxes, State laws prescribing schoolfunding formulas consistently shortchanged children in poor urban districts, whose assessed property tax ratables were shrinking, and favored children in wealthy suburban districts. Litigation challenging the school funding formulas began in 1970, and the Robinson v. Cahill and Abbott v. Burke schoolfunding litigation came before the State Supreme Court more than fifteen times in the next thirty years. During that litigation, four state statutes providing for state funding of public education were held unconstitutional as applied to the poorest urban school districts: The State School Incentive Equalization Aid Law (L. 1970, C. 234); The Public School Education Act of 1975 (L.1975, C. 212); The Quality Education Act of 1990 (L. 1990, C. 52); and The Comprehensive Educational Improvement and Financing Act (L. 1996, C. 1389). Each one of those statutes, enacted by the Legislature and signed by the then Governor, was invalidated because it failed to provide funding "adequate to provide for the special educational needs of these poorer urban

districts, and address their extreme disadvantages." Abbott v. Burke, 119 N.J. 287, 385 (1990).

In that 1990 decision, a unanimous State Supreme Court ordered that, until the adoption of a new and constitutional funding law, the State must fund urban school districts at a level equal to the funding provided to children in the State's wealthiest districts. The Court also ordered the State to identify and pay for necessary supplemental programs, such as pre-school and full-day kindergarten, that would give urban school-children a fair chance to compete on an equal footing with children from wealthier districts.

During the three decades of litigation designed to enhance funding for New Jersey urban school districts, the Star Ledger - as well as many of the State's other leading newspapers - supported the Judiciary's decisions to require revision of disparate school-funding legislation that denied adequate resources to urban school children. In a June 6, 1990 editorial published the day after the Court's unanimous opinion in <a href="#">Abbott</a> <a href="#">V. Burke II</a>, and entitled "The High Court Speaks," the Ledger ended its endorsement of the decision with these words:

The last thing New Jersey needs now is another constitutional crisis. The Legislature must act responsibly and adopt legislation that meets the constitutional mandate of the Supreme Court decision.

One of the urban districts that benefitted greatly from those decisions was Elizabeth. As this Report demonstrates, the students in the Elizabeth School District currently are realizing consistently high levels of educational achievement and Elizabeth has among the highest scores on standardized tests of all of the school Districts in its socioeconomic bracket.

With approximately 590 operating school districts in New Jersey, the Star Ledger's selection of Elizabeth - a compelling example of the educational improvement envisioned by the Court decisions to enhance urban school funding and supplemental programs - as the target for such a derogatory, harsh and unsubstantiated series of articles and editorials is difficult to comprehend. As this Report demonstrates, the allegations of persistent political pressure to raise campaign funds are false, and their origins are clearly attributable to biased and unreliable sources. The political critics of the Board - led by Senator Lesniak and Mayor Bollwage - have been engaged for many years in a persistent and unprincipled campaign to damage and discredit the Board. They appear to be motivated not by dissatisfaction with the District's remarkable educational record but by other interests that would flow from political control of the Elizabeth School Board.

This Report demonstrates that, despite the efforts of political opponents to diminish its achievements, the Elizabeth

School System is one of the most successful urban school districts in New Jersey. The residents of Elizabeth rightfully can take well-deserved pride in the extraordinary accomplishments of its school children. I hope the day is not too distant when that pride is acknowledged and acclaimed by the

Star Ledger as well.

February 9, 2012

# EXHIBIT A

# The Star-Ledger

## **EDITORIALS**

## Looks like payback

Saturday, April 01, 2006

Excuse us for being skeptical, but Sen. Raymond Lesniak's recent concern with the finances of the Elizabeth school district are a little hard to swallow. This week, the Democratic senator from Union County asked the Assembly Budget Committee, which started looking at state school aid figures, to scrutinize the finances of the Elizabeth district. He also asked the state Education Department to appoint a state monitor to oversee the district's spending. Strange? It seems so.

Ordinarily, senators are cheerleaders for towns in their districts, working overtime to guarantee that they get their fair share from the state plus some. In a remarkable reversal, Lesniak decided to do just the opposite. He seems to be inviting the state to hold back money originally slated for Elizabeth. If Lesniak were truly concerned with the public purse, we would applaud him. But we suspect this is not about a sudden attack of conscience.

A more likely explanation is that Lesniak has decided to play hardball because the Elizabeth Board of Education dared to upset a land sale that Mayor Christian Bollwage – a Lesniak protégé – thought was a done deal. The city was going to sell a 4.1-acre tract to a politically connected developer at a bargain-basement price. The school board balked at the idea, saying the land was needed for a new vocational technical school.

Nevertheless, the city council authorized the sale of the land for \$520,000 – the same amount the city paid NJ Transit to buy the land. Appraisers say the site is worth more than \$5 million.

Turns out the developer, Vilu Construction, owned by Luis and Vivian Rodriguez, gave at least \$5,000 to the Elizabeth mayor's 2004 re-election campaign. The two owners also have given at least \$2,000 to Lesniak.

It may be that some of the issues raised by Lesniak have merit. What we fear is that this is not about dealing with mismanagement of public funds. It's about payback. Lesniak seems to be out to punish the school board and by extension the taxpayers of Elizabeth. That's as indefensible as the original multimillion-dollar giveaway to the developer.





Pablo Muñoz Superintendent of Schools

September 25, 2006

Secretary Margaret Spellings U.S. Department of Education 400 Maryland Avenue SW Washington, DC 20202-1500

Re:

- Press release from the US Department of Education, Office of the Inspector General

- Comments made by Press Spokesperson Catherine Grant to Star Ledger 9/22/06

Honorable Madame Secretary Margaret Spellings,

I represent the Elizabeth Public Schools district of Elizabeth, New Jersey.

Elizabeth is a working class city that is representative of many of the urban centers that dot the landscape not only in New Jersey, but in our nation as a whole.

It is a district that I am proud of and its administration is commonly referred to as one of the best among urban districts. Upon my appointment to the position of Superintendent, our district undertook an extensive review of our operations and curriculum in the interests of becoming one of the best school systems in the State of New Jersey. We have instituted a 5 year strategic plan that addresses our need to increase student achievement and to eliminate the achievement gap.

Many exciting things are taking place in Elizabeth. Just this month our district opened two new pre-k through 8 elementary schools, The Monsignor João S. Antão School and The Ronald Reagan Academy. We have also opened two new high school academies called the Lower and Upper Academy for the Gifted and Talented. Academic rigor is being increased in the classroom with new standards (For example, our 8th graders are now required to learn algebra in order to advance). Elizabeth has the largest enrollment of any high school in the nation. It was built for 2,800 but now houses 5,300 students. Classes at our high school start at 7:30 am and end by 4:00 pm. Our graduation requirements have also been increased dramatically, as we now require that students have 160 credits to graduate. Our minimum requirement for attendance is 95% of the school days, which is higher than New Jersey standards.

It has been a year of personal fulfillment for me as well. I have been selected as a Broad Fellow, a designation that I am particularly proud of. This illustrious designation will provide dividends for our district in achieving excellence as we use the talents and support of the Broad Foundation to achieve our goal to leave no child behind. We are focused on that goal, however, we need your assistance.

Our district received a communication on September 7th advising us that Office of the Inspector General would be auditing our finances. We take such directives seriously and we believe that we are prepared

The Elizabeth public school system is filled with very talented people, who strive to ensure that our district is a good steward of all monies that we receive. That is why we were surprised and dismayed by the announcement of the impending audit.

During a teleconference call held on September 13th, we discussed the guidelines that were provided to the district on how the audit would be conducted. The teleconference included 4 representatives from USDOE, Zachary Sudiak, Alyce Frazier, Daniel Schultz and Theresa Dollard all of the Office of Inspector General. Other representatives involved in the call were from the New Jersey Department of Education (NJDOE), our NJDOE county superintendent and Elizabeth school district team members.

Our team was candid with those individuals who participated in the teleconference that we perceive the genesis of the audit to be political pressure brought by factions opposed to the Board of Education. It is well known and widely publicized that a few individuals connected to the local party establishment have been making a coordinated effort to attack the board and administration of this district. It is a highly charged dispute between our Board of Education and the local city government regarding the attempted sale of a particular property to a political supporter of our local mayor and state senator.

The property at issue was to be sold for \$520,000 to a political supporter of our mayor and state senator. The site of the property also happened to be perfect for the location of a new vocational technical high school. In a city with dwindling available property we believed this property to have a much greater value as a potential site for a new school and believed it to be worth considerably more than the proposed sale price to a private developer. Accordingly, we decided to appraise the property which resulted in a market value of approximately 5.1 million dollars. We have sought the assistance of the New Jersey State Department of Education to acquire the property but our requests have been ignored. In short, we believe that the needs of our children are being ignored by State and local officials and our community is being preyed upon by the politically connected for their own personal gain.

The Board of Education has requested various authorities to investigate the matter and is still awaiting a response. The dispute over this much-needed real property has consumed time and valuable resources. However, the Board has pursued this matter given its importance for our school district, its residents, and our children. It is against this backdrop that we view with great skepticism the timing of this audit.

When we met with the Office of the Inspector General, we specifically inquired about the motivation for the audit. Was it routine or was it as a result of a wider concern? Was it the efforts of someone politically connected? Our bottom line is that we will help to complete the process. We are predominantly concerned that your agency, or any other entity, not knowingly or unknowingly become involved in a political feud. We were clear at the entrance review "if this is a legitimate audit, we support the effort. If you are coming into here as a result of a politically motivated effort on the part of some, then we are concerned."

The United States Department of Education representatives indicated to us that they could not comment on the nature of the audit and that no statements otherwise would be made. We asked specifically if there were any documents, positions or other material that would be issued prior to the audit report. Our district was advised that a preliminary report could be issued but was not typically the rule. We gave everyone the benefit of the doubt.

That same day. September 13th the Office of the Inspector General actually issued a press release announcing that an audit would be conducted.

Excerpt from USDOE/ Office of the Inspector General - Press Release 9/13/06:

"The Office of Inspector General is committed to ensuring that education deliars reach the intended recipients," said John P. Higgins, Jr. Inspector General of the U.S. Department of Education, "We're going to take a look at the District, and determine if federal funds were used in accordance with applicable federal cost principles. Elizabeth families and students deserve nothing less."

The comments were unfortunate and the inference is obvious that Elizabeth Public Schools might in fact be providing "less than what the families and students deserve."

We only learned of this press release on September 21, 2006 when a reporter contacted our office to get comments on the audit. That press release was forwarded to him. This conduct was directly contrary to the advice by your representatives that no public information or comment would be forthcoming until a proper review was conducted as part of the due process that is afforded all entities.

The Star Ledger, the most prominent newspaper in the State of New Jersey carried the story on September 22, 2006. Here is an excerpt.

The audit by the federal Department of Education's Office of the Inspector General is rare in the state, and a federal spokeswoman said it was prompted by recent public allegations of questionable spending by the Elizabeth board and administration.

"It is our policy not to discuss our work until it is completed, but there have been allegations since January in the newspapers and elsewhere of wrongful expenditures," said Catherine Grant, a spokeswoman for the inspector general's office

The comments in the article were unfortunate. U.S. Department of Education officials have successfully castigated the district publicly and portrayed it in a negative light, even before any significant review has taken place of this districts' finances, much less any finding of impropriety. As a result of this action, our belief in the validity of this process has been severely undermined. We are confident that once your review of this matter is complete that you will conclude that the district and its reputation have been irreparably harmed and impugned.

The "coincidence" of all of these forces converging at once leads us to believe that some might be motivated by local or regional elections that are taking place. The very issues that the Office of Inspector General has commented on will no doubt be used at this moment for political gain on Tuesday, September 26<sup>th</sup> as well as in the elections of November, 2006. You should know about this because it might explain motives that are not readily visible to anyone outside of Elizabeth.

I do know this. The Department's statement to the press undermined the sincerity and credibility of all of those involved in this audit process. By stating that "it is our policy not to discuss our work until it is completed" and then proceeding to comment regardless makes us further question the motivation behind this audit. Responding to the audit will require our district to expend considerable time and resources which could be spent elsewhere. Perhaps that is exactly the result desired by the political opponents of the Elizabeth Board of Education.

The Elizabeth Public Schools district asks that you review this matter. It is one that warrants your immediate attention. I hope that you will be able to right the wrong that has been committed and I hope

that our district will be able to continue to work in cooperation with the United States Department of Education to fully address issues underlying the audit.

Thank you for your attention to this important matter.

Sincerely,

Pablo Muñoz

Superintendent of Schools

Enclosure:

Looks Like Payback - Star Ledger - Editorial from the Star Ledger Editor, April 1, 2006 This School Could Be A City - Star Ledger, June 25, 2006

Elizabeth Public Schools – Information For The Taxpayer

Elizabeth Public School Strategic Plan

United States Department of Education - Press Release September 13, 2006 (ed.gov)

Fed Auditors Scrutinize Elizabeth Schools - Star Ledger, September 22, 2006





Pablo Muñoz Superintendent of Schools

September 29, 2006

Margaret Spellings U.S. Department of Education 400 Maryland Avenue, SW Washington, DC 20202- 1500

Honorable Madame Secretary Spelling,

Subject:

Announcement of a USDOE Audit Investigation in a political brochure Revelation of Congressman Bob Andrews letter to USDOE calling for audit

In light of my letter to you September 25, 2006 I would like to advise you of a serious matter that has added cause for concern here in the Elizabeth Public Schools district.

I have attached for you a politically created newspaper that highlights the audit investigation of our district and in fact provides us more information on the origins of why we are the subject of this audit. It also confirms for us the existence of a highly focused smear campaign by a group of individuals to attack our school district. This is a coordinated effort on the part of a Democratic party boss to elicit the support of any agency he can in achieving his goal to overtake a democratically elected board.

Our opponents are upset that the Board of Education has stood strong on the issue of the acquisition of a property for the construction of a new high school. The property in question was assessed to have a value of 5.1 Million Dollars. The local municipality had identified a politically connected supporter to purchase the land for only \$520,000. Since that moment of 'standing up for what is right' and seeking a solution to reduce the overcrowding in the nation's largest high school, our district has now seen a mysterious confluence of forces all apparently led by NJ State Senator Raymond Lesniak to undermine our district.

The political campaign that Senator Lesniak and his protogés have conducted statewide against our district in fact has implications in other elections, but that presumably is not your area of concern. Unfortunately it also appears to us that Congressman Robert Andrews is now a main protagonist in this classical New Jersey political theater. Madame Secretary, there is an old saying that "the first casualty of war is truth" and the circumstances that we find ourselves in warrants that we seek your support and guidance to reach that truth before it is in fact a casualty of this battle.

The leadership of this district as well as the many friends and supporters that we count on are highly concerned with the selection of Elizabeth for an audit of Title I funds. We are concerned that it was represented to us that this was not politically motivated, when it obviously was politically motivated. We are concerned that the United States Department of Education represented that it would not comment at all publicly, and then it did so through an unbelievably timed press release. We were totally left in the dark as to where a complaint might have arisen. Amazingly the full story of how our district has been

targeted by the federal government was introduced two days before a highly charged political election. I have enclosed the campaign newspaper, paid for by Elizabeth Mayor Chris Bollwage, noted on page 7. This unfair and improper coordinated effort warrants an investigation.

The irony for many in the State of New Jersey is even greater. Senator Lesniak and Mayor Chris Bollwage were able to elicit the support of Congressman Andrews who resides in Camden County, at the other end of our State. Instead of focusing on his own region, he has instead chosen to immerse himself in an issue that relates to a district two hours north of him. The selection of our school district for this audit as a result of a politically motivated mission should be of grave concern. The Star Ledger of New Jersey identified Senator Raymond Lesniak's attacks for what they were in an editorial entitled "Looks Like Payback". We have enclosed a copy.

Our district and its supporters, whether they be community or elected representatives, are concerned that the United States Department of Education has opened itself up to this subterfuge and is unknowingly being used for the purposes of some from the State of New Jersey. The Department of Education and the Office of the Inspector General are being used as powerful pawns in a highly focused political smear campaign. The political desires of some should not compel an otherwise unnecessary audit of our district.

Madame Secretary, we feel confident that our financial administration is worthy of your review. We will continue our good faith effort to provide any documents that your auditors require. Our district is one that is referred to as one of the best among urban districts, but it is one that is facing many challenges and we need your help. We ask that we are dealt with in a fair manner. By this time it has become too obvious that we are not being dealt with fairly and as a result we request that you review this matter immediately to ensure the proper resolution of this audit. We believe our district should be afforded the normal courtesy extended to all districts that go through this level of review. Out of this desire for fairness, we ask that someone from your office contact us to let us know how we should proceed with this matter.

I would like to sincerely thank you for the attention you are giving this letter.

Sincerely,

Pablo Muñoz

Enclosure:

City Journal - a political publication

"Looks Like Payback"- A Star Ledger editorial on Senator Raymond Lesniak

Star Ledger letter to the editor from State Senator Raymond Lesniak





## Office Of The Mayor

CITY OF ELIZABETH, NEW JERSEY

J. CHRISTIAN BOLLWAGE:

CITY HALL SO WINFIELD SCOTT PLAZA SLIZABOTH, NEW JERSEY 07301-8448

> TEL 808-880-4170 FAX 808-820-0130

February 21, 2006

Honoxable fon Corxina
Office of the Governor
PO Box 001
Trenton, NJ 08625

Dear Governor Corzine:

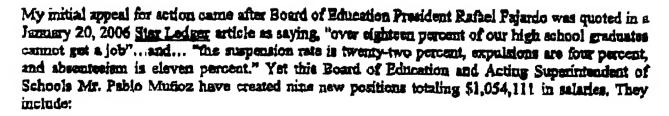
Last month I wrote you concerning the troubling situation at the Elizabeth Board of Education. I requested that not only an external auditor be hired by the State of New Jersey to conduct an audit of the Elizabeth Board of Education but that the State Department of Education take over the Elizabeth public school system.

I repost my request and give further disconcerting grounds:

Currently the Elizabeth Board of Education is missaing \$25,000 of texpayer/Abbott Funding for the airing of a politically motivated television commercial. This cost does not include the production or packaging for television distribution costs, also paid for with texpayor/Abbott funding. Clearly a commercial used to self promote and gain political support is not what State, local, and Abbott funding was created to finance.

Abbett funding that was created to level the educational playing field and give urban children the same opportunities as children in wealthier school districts is being squander and misappropriated in the City of Elizabeth. The nine Board of Education members are dipping into a vast well filled with millions of dollars of taxpayer/Abbett funding and are studing their positions to advance their own political agenda. This disturbing situation occurs unchecked and unmonitored while our children pay the ultimate price of an inferior education at the hands of those charged with their futures.

The Board of Education has recently hired an appraiser (ARD Appraisal) and a law firm (McCarter & English) to sue the City of Elizabeth over a disputed City owned parcel slated for development. These expenditures at this time total approximately \$50,000 (see attached letter to Acting Superintendent). According to Mr. Fajardo the Board of Education is willing to pay the City of Elizabeth \$5.1 million to purchase the land in question. Why does the Board of Education have this large surplus of tempayer/Abbox funding? If the average new school cost \$30 million to build how does the Board of Education anticipate financing this new initiative? These are blaring examples of deliberate fraudulent misuse of unpayers/Abbott funding. It shows a total disregard for what Abbott funding is suppose to be used for—our children's admission.



Mariana Abitanto (former political candidate)—Supervisor of Facilities—\$60,000\*
Cherry Wilcots (former BOB member)—Recruiter/Staffing Specialist—\$55,000
Bunice Cousele—Supervisor of Labor Relations—\$88,903
Elaina DePra—Supervisor of Compensation and Benefits—\$86,939
Eduardo M. Dias (former BOB member)—Supervisor of Construction—\$60,000
Olga Freda—Supervisor of Recruitment and Hiring—\$86,939
Daphna Freyre—Affirmative Action—\$60,000
Aida Garcia—Assistant Superintendent—\$136,500
Donald Genealves (former political candidate)—Assistant Board Secretary—\$120,000\*
Dori Hasson—Confidential Administrator—\$62,000
Natalia Kosonocky—Director of Accounting—\$117,830
Anna Rooney—Confidential Secretary—\$65,000
Garrett Smith—(current Mayos of Rosells)—Budget Analyst—\$55,000
\*Gonoalves was given a \$60,000 raise and promotion to accommodate Abitanto

Further evidence of rampant nepotism comes in the form of a Board of Education Resolution. The attached Resolution, regarding a collective bargaining agreement with the Elizabeth Education Association (ERA), shows that six of the nine BOE members cannot vote on the agreement because of conflicts of interest, which include:

#### BOE President Rafael Fajardo-

Rosa Fajardo—spouse—Assistant Pre-Kindergarten—\$27.296
Olga Fajardo—sister —Attendance Lizison—\$35, 797
Melissa Kulick—daughter—ESL in Class Support—\$49,848
Mariene Fajardo—daughter—Child Development—\$33,936
Bric Kulick—son-in-law—Web Daveloper—\$51,050
Total salaries for family members of Rafael Fajardo —\$197, 927

#### Pastor Rani Burgos-

Karean M. Burgos—wife—Perent Lizison—\$35,797

Marina Burgos—mother.-World Language—\$46,331

Priscilla Burgos—sistar—Child Development—\$35,505

Total salaries for family members of Pastor Raul Burgos — \$117,633

#### BOE Vice President Armando Da Silva-

Ana Da Silva-wife-computer data entry -\$40,380

#### Carlos Cedeno-

Supported by the Elizabeth Education Association PAC in the 2004 Board of Education election

Jamnifer Codeno-spouse-teacher/tutor-552,340

All of the above family members were hired after their respective Board of Education family member was elected into office. In addition, Elizabeth City Councilman Robert Jaspan, a staument ally of the filizabeth Board of Education, was given a \$71,327 Purchasing Agent position which he uses to promote the political interest of the Board, as evidenced by the attached contract for the above mentioned commercial. A Purchase Order for the payment of the politically motivated commercial has been issued and sources tell us that an additional Purchase Order of \$25,000 is being processed. It is important to note that Councilman Jaspan and Board of Education member Carole Cascio plead guilty to ethics violations and were suspended from their perspective positions in November of 2004. Furthermore, three of Jaspan's family members were also hired to work for the Elizabeth School system, and include:

Kathy Sullivan—Jaspan's cousin—Secretary-530, 074
Patricia Fallon-Jaspan's Danghter-Parent Lizison-535,797
Elleen Nahaczawaski-Jaspan's Danghter-in-Law-Pre-K Teacher--545,060

In addition to these numerous examples of nepotism, the Board of Education recently rewarded Acting Superintendent, Pablo Muñoz, with a raise that placed his salary at \$209,279. The Board of Education is also currently funding the previous Superintendent, Thomas Dunn Jr.'s salary of \$199,935, in addition to Mr. Muñoz's, which in total is costing the school district \$409,212 to fund one position.

Many racre examples of nepotism exist, as this is just the tip of the iceberg. It is obvious that misuse and mismenagement of taxpayer/Abbott funding is occurring in Elizabeth. An individual must be assigned or a mechanism must be implemented at the State level to review and assess this outrageous spending. Funding intended for our children's education and their well-being is used by this Board of Education political play money.

If an audit by the State of New Jersey confirms the above and uncovers additional misuse of government funds certain remedies should be instituted to prevent irresponsible and wasteful spending. Individuals who are systematically taking money intended to give our children the same opportunities, as children in wealthier districts must be stopped. In contrast, the only opportunities being made available are to political cronics and Board of Education family members in the form of jobs and large salaries.

The obvious misuse and mismanagement of Abbott/expayer funds, recent promotions, position excations, and self-promoting productions have not only highlighted very test and serious problems within the Elizabeth Board of Education they demonstrate the immediate need for intervention.

The State should strongly consider reworking the Abbott formula especially when funding is spent on a politically motivated television advertisement.

If the above-mentioned financial discrepancies are confirmed by an external audit abould not the Acting Superintendent of Schools Mr. Pable Musicz resign for allowing Abbott District and taxpayer funds to be recklessly used for things other than its intended use—the education of our children?

Should not the nine members of the Board of Education resign if taxpayer/Abbott funding is being misused and misdirected toward the their own political advancement, reportism, and general fiscal mismanagement?

Should Purchasing Agent Jaspan not resign for authorizing tempayer/Abbout funding for the creation, development, and placement of politically motivated and self-promoting television commercials?

At the very least, serious consideration should be given to the takeover of the Blizabeth Public School District by the State Department of Education, as well as an external audit of all District finances should be conducted.

When Abbott funding was made available to urban centers like the City of Elizabeth we knew our children would have a chance for a better future and could eventually compete with sindents from more advantaged school districts. Each day those hopes and dreams are fading as the irresponsible men and women placed in charge of our children's future continue to shamelessly misuse and mismanage finding for our students, yielding a critically inadequate educational system.

Not only is the Elizabeth Board of Education not a model for Abbott School success, it is an example of inefficiency, ineffectiveness, and disregard. The Elizabeth Board of Education behaves in a fashion that does not support the quality of education as defined in our Constitution, resulting in a continual disservice to our children and our City.

Our children's success and future are in grave danger at the hands of the Elizabeth Board of Education and Acting Superintendent of Schools. Our students' needs and educational progress are being ignored by a School Board motivated by political aspirations and fueled by an endless amount of funding. Students of elementary School # 29 attend classes without any books. While taxpayer/Abbott funding is used for political television commercials, political vendettes and costly self-promoting legal fights.

As elected officials it is our duty to protect the interest of all our residents. Although a child's voice may not be loud - it should never be ignored. Our children are tomorrow's leaders, educators, and representatives and their road to success depends on the strong academic foundations they receive today.

Governor, the situation is grim and intervention is desperately needed to stop millions of texpayor/Abbott money from being wasted and misused. Our children's future is being robbed from them. If nothing is done to prevent this disgraceful Board of Education from mining our children's lives, things can only worsen. Education is one of the greatest gifts you can give a child, and in the City of Elizabeth that gift is being selflessly denied. The Elizabeth Board of Education has set their priorities and they do not include our children's education.

Sincerely,

Chris Bollwage

MAYOF

Enclosure

)

Cc: Members of the State Senate
Members of the General Assembly

5

C O P Y

Finance and Accounting Report Authorization to Pay Vouchers

Elizabeth N.J. February 16, 2006

The Acting Superintendent of Schools recommends approval of the following:

### AUTHORIZATION TO PAY VOUCHERS

1. •	Aremerk (Trip to Franklin Institute - Holmes M.S.) (Trip to Franklin Institute - Hemiton M.S.)	673.00 675.00	\$ 1,350,00
2.	Ard Appraisal Company (Two Properties)		6.000.00
3. •	B.B. Miller & Company (Public Official Bond - Accountant)		840.00
4. *	Bernards Township Forensics (Registration Fee - Forensic Tournament)		. 220.00
5.	City of Elizabeth (Property Taxes 1* Quarter - Prince \$1.)		19.651.09
6. *	(Hotel Account Job Fair)		335.61
7.	Detail Associates (Professional Services - Remediation Sch. 14)		8.500.00
1.	Engineering & Professional Services (Monitoring Service) (Meintenance Service - November) (Maintenance Service - December) (Monitoring Service) (Monitoring Service)	3,735.00 9,100.00 9,100.00 567.40 2,314.04	24.816.44
9.	Focus On Results (Conference - District-wide Results)	,	350.00
10.	Oonzalez, Roger (Professional Services)	,	2,700.00
11. **	(Amer. Chorel Diz. Assoc, Conv.)		1,740.00
12.	Honeywell, Inc. (Quarterly Payment)		32,122,12
13.	Insurance Consulting Associates (Professional Services - January, 2006)	,	4,200.00
14.	Liberty Mechanical Contractors, Inc. (Roof Top HVAC System - EHS)	•	79,368.94
15. *	McCarter & English (Professional Services)		25,000.00



Flizabeth	Roard	of Educati	ion Timeline	of Audits

Date of Notification	Reference	Investigation
		Personnel Issues
9/6/2005	C2006-2731	Noncompliant with state or Federal special Ed laws
9/21/2005	OCI #902	Public school Contracts Review - Elevator maintenance
1/19/2006	OCI #878	Additional Personnel Issues
4/18/2006	OCI #878	Allegations of Unfair Hiring Standards
5/18/2006	C2006-2812	Noncompliant with state or Federal special Ed laws
	OCI #943	Early Childhood Provider Wonderworld
	NJ Attorney General	State Grand Jury Subpoena
	NJDOE Dept of Finance (A)	Investigation of costs associated with greatest ratable publication and video production
8/10/2006	OCI 1037, 1038	Early Childhood Program 2005-2006
9/7/2006	OCI #1109	Public school Contracts Review - Student Uniforms
9/13/2006	OIG	Title I Audit
9/19/2006	(A) Commisioner Davy	Letter announcing deduction \$88K for illegal advertising
10/4/2006	OCI	Administrative Expenses
1/26/2007	C2007-3236	Noncompliant with state or Federal special Ed laws
3/1/2007	KPMG	Forensic Audit 7/1/04-6/30/06
7/30/2007	OFAC	Criminal History Review Process
9/6/2007	OFAC #1345	<b>Employment &amp; Termination Issues</b>
9/10/2007	OFAC #1369	Alleged interrogations of Students
9/14/2007	OFAC 1231,1232,1233,1234	Four Early Childhood Providers 2006-2007
10/17/2007	NJDOE Grants Management	Hurricane Recovery Act Program
12/3/2007	OFAC #1232	Early Childhood Program 2006-2007
12/12/2007	NJDOE State Aid Audit Unit	Early Childhood Expansion Aid Enrollment 2007
	OFAC (B)	Review of Publication and Advertising Expenses
		ECPA extended day/year salary review
		Legal Fees
	OFAC (B)	Follow up Review KPMG Forensic Audit
5/30/2008	(B)NJDOE Subpoena	ECPA Expansion aid Enrollment, Publication and Advertising, Legal Fees, Follow up on KPMG Forensic, ECPA extended day/year salary review
12/11/2008	OFAC	Request for 2006-2008 Overtime Records
1/8/2009	NJ Division of Public Contracts	Compliance with EEO
1/12/2009	OFAC	Follow up Review KPMG Forensic Audit
2/27/2009	Fed Communication Comm	Federal E-Rate Program
3/12/2009	OFAC (C)	Request (Auditors unannounced visit) to review publications July 08-March 09
3/12/2009	(C) NJDOE Subpoena	Publications November 08-March 09
	• •	Audit July 1, 2009 - April 23, 2010
	<del>-</del>	Public School Contract Compliance Review
		Grading Practices Review
		Criminal History and Certification Review
• •		Deffered Compensation 403B audit
		Compliance with EEO
	7/27/2005 9/6/2005 9/6/2005 9/21/2005 1/19/2006 4/18/2006 5/18/2006 6/7/2006 6/12/2006 6/15/2006 8/10/2006 9/7/2006 9/13/2006 9/13/2006 9/13/2007 9/10/2007 9/6/2007 9/10/2007 9/14/2007 10/17/2007 12/3/2007 12/3/2007 12/12/2007 4/23/2008 5/2/2008 5/2/2008 5/2/2008 5/30/2008 1/8/2009 1/12/2009 3/12/2009 3/12/2009 3/12/2009 6/5/2009 10/19/2009	7/27/2005 9/6/2005 9/6/2005 9/6/2005 9/21/2005 9/21/2006 1/19/2006 1/19/2006 9/1878 5/18/2006 CCI #878 6/18/2006 CCI #878 6/18/2006 CCI #878 6/18/2006 CCI #878 6/12/2006 OCI #878 6/12/2006 OCI #943 NJ Attorney General NJDOE Dept of Finance (A)  8/10/2006 9/13/2006 OCI #1109 9/13/2006 OCI #1109 9/13/2006 OCI #1109 9/13/2006 OCI #1109 9/19/2006 OCI 1/26/2007 C2007-3236 3/1/2007 CFAC 9/10/2007 OFAC #1345 OFAC #1345 OFAC #1369 9/14/2007 OFAC #1369 9/14/2007 OFAC #1331,1232,1233,1234 10/17/2007 NJDOE Grants Management 12/3/2007 OFAC #1232 12/12/2007 NJDOE State Aid Audit Unit 4/23/2008 OFAC #1420 (B) OFAC #1419 (B) 5/5/2008 OFAC #1419 (B) S/5/2008 OFAC (B)  5/30/2008 (B)NJDOE Subpoena  12/11/2009 OFAC (C)  3/12/2009 OFAC OFAC OFAC OFAC OFAC OFAC OFAC OFAC

3/24/2010 OIG 10/29/2010 OLS

OIG (See 9/13/2006) OLS (See 3/24/2009)

USDOE determination Letter from Title I audit Report issued on audit of July 1, 2007-April 23, 2010





Department of Educational Psychology Graduate School of Education Rutgers, The State University of New Jersey 10 Seminary Place New Brunwsick, NJ 08901-1183 www.gse.rutgers.edu

732-932-7496, Ext. 8327 Fax: 732-932-6829

January 26, 2012

Justice Gary Stein
Pashman Stein, P.C.
21 Main Street, Suite 100
Court Plaza South
Hackensack, New Jersey 07601

Dear Justice Stein:

I am writing this letter to confirm that I have been retained by Pashman Stein, P.C. starting September 2011 to assist in your work regarding an Elizabeth Board of Education (EBOE) internal review. This letter also contains the major responsibilities that I have been tasked to do.

Sampling of Employees to be Interviewed: To randomly sample EBOE employees to be interviewed, I requested through Pashman Stein a copy of the roster of all the individuals employed by the school district. As of September 26, 2011, the EBOE had 3825 employees. From this roster, I employed a simple random sampling procedure to select a total of 532 individuals without any intervention from Pashman Stein. The employees were then contacted by the lawyers of Pashman Stein through the EBOE. Of the 532 employees, 13I agreed to be interviewed, I39 declined the interview request, 243 did not respond, and I9 were not interviewed because of issues such as scheduling. Overall, the response rate of individuals who agreed to be interviewed was about 25%. This relatively low response rate could be a result of employees being informed by the school district that participation in the interview was voluntary. However, we have no reason to believe that those who agreed or declined to be interviewed held a particular point of view with respect to the issues being investigated.

Raw and Weighted Analyses: Instead of dealing with the close to 250 different job titles, per my request, Pashman Stein provided me with a functional categorization of these job titles. The four functional categories I worked with are: A (Managers and Administrators), B (Teachers/Certified Staff), C (Skilled Assistants, Child Development Associates, Computer Technicians and Professionals), and D (Clerical, Skilled and Unskilled Labor, Food Service, Attendants, Security Guards and Liaisons). It should be noted that the categorization was carried out prior to and had no impact on the sampling procedure. I found that the proportions of employees interviewed from the A, B, C and D categories were not the same as the proportions of all the A, B, C and D employees in the entire district. For this reason, I conducted two separate analyses — one that used the raw (i.e., unweighted) responses and another that used the relative sizes of the categories at the district level as weights. Although the numbers from the weighted and unweighted analyses were different, they do not change the conclusions of the study.



Margin of Error: Although the interview questionnaire consisted of over a few dozen questions and follow up questions, two critical questions were of primary interest: "Did you feel any pressure to donate?" and "Did you feel any pressure to help [volunteer]?" For these questions, I ascertained that based on the number of respondents (131 and 128, respectively), we are 95% confident that the margin of error for each question was approximately 1.5% only. Stated differently, at a 95% confidence level, the estimated percent of employees who felt pressure to donate to or volunteer for campaigns could be a low as close to 0% to no more than 2.3%. I also verified that, based on the same 95% confidence level, that the margins of errors for three other questions, "Do you know if any of your colleagues may have felt pressure [to donate]?", "Do you know if any of your colleagues may have felt pressure [to volunteer]?", and "How were you asked [to donate -] By mail?", were all under 5%: the respective margins of error for those three questions were 3.9%, 1.6%, and 4.4%.

In addition to the major responsibilities described above, I confirm that I have also provided Pashman Stein my opinion on the development of the questionnaire, and the coding and analysis of the data.

If you need additional information regarding my involvement in this study, please do not hesitate to contact me at j.delatorre@rutgers.edu or at (732) 932-7496 extension 8308.

Sincerely,

Jimmy de la Torre, Ph.D.

Associate Professor & Program Coordinator

Educational Statistics, Measurement & Evaluation

Department of Educational Psychology

Rutgers, The State University of New Jersey

#### **CURRICULUM VITAE**

#### Jimmy de la Torre

#### **Contact Information**

Cell: (732) 668-8266

Office: (732) 932-7496 Ext. 8308

E-mail: j.delatorre@rutgers.edu

Department of Educational Psychology Rutgers, The State University of New Jersey 10 Seminary Place New Brunswick, NJ 08901

#### Education

University of Illinois at Urbana-Champaign Ph.D. in Quantitative Psychology M.A. in Psychology M.S. in Statistics	2003 2002 2001				
University of the Philippines-Diliman  Master of Statistics  B.S. in Psychology (magna cum laude)	1997 1992				
Honors and Awards					
Jason Millman Promising Measurement Scholar Award (National Council on Measurement in Education)	2009				
Presidential Early Career Award for Scientists and Engineers (White House)	2008				
National Science Foundation Faculty Early Career Development Award	2008				
National Academy of Education/Spencer Postdoctoral Fellowship	2006				
Spencer Foundation Dissertation Fellowship	2002				
American Psychological Association Dissertation Research Award	2002				

#### **Selected Grants**

National Institute on Alcohol Abuse and Alcoholism. Innovative Analyses of Alcohol Intervention Trials for College Students. (Co-Principal Investigator), August 2010 – July 2013.

National Science Foundation. *Emerging Research-Empirical--Proving Styles in University Mathematics*. (Co-Principal Investigator), August 2010 – July 2013.

- U.S. Department of Education. Graduate Assistance in Areas of National Need Fellowship Program - Graduate Fellowships in Educational Assessment, Evaluation and Research. (Principal Investigator), July 2010 – June 2015.
- National Science Foundation. Development and Application of a Multilevel Evaluation Procedure for Examining State and School Educational Contexts. (Co-Principal Investigator), August 2010 – July 2013.
- National Science Foundation. CAREER: A Comprehensive Modeling Approach to Cognitively Diagnostic Assessment: Methodological Developments and Practical Implementations. (Principal Investigator), July 2008 – August 2013.
- National Academy of Education/Spencer Postdoctoral Fellowship. Designing Assessment to Support Learning: A New Approach to Test Construction and Analysis (Principal Investigator), July 2006 – July 2008.
- Institute of Education Sciences. Skill Profile Comparisons at the State Level: An Application and Extension of Cognitive Diagnosis Modeling in NAEP (Principal Investigator), June 2005 - December 2006.

#### **Selected Referred Publications**

- de la Torre, J. (2011). The generalized DINA model framework. Psychometrika, 76, 179-199
- de la Torre, J., Song, H., & Hong, Y. (2011). A comparison of four methods of IRT subscoring. Applied Psychological Measurement, 35, 296-316.
- de la Torre, J., & Hong, Y. (2010). Parameter estimation with small sample size: A higher-order 1RT model approach. Applied Psychological Measurement, 34, 267-285.
- de la Torre, J., Hong, Y., & Deng, W. (2010). Factors affecting the item parameter estimation and classification accuracy of the DINA model. Journal of Educational Measurement. 47, 227-249.
- de la Torre, J. & Lee, Y. S. (2010). A note on the invariance of the DINA model parameters. Journal of Educational Measurement, 47, 115-127.
- de la Torre, J. (2009). A cognitive diagnosis model for cognitively-based multiple-choice options. Applied Psychological Measurement, 33, 163-183.
- de la Torre, J. (2009). DINA model and parameter estimation: A didactic. Journal of Educational and Behavioral Statistics, 34,115-130.
- de la Torre, J. (2009). Improving the quality of ability estimates through multidimensional scoring and incorporation of ancillary variables. Applied Psychological Measurement, 33, 465-485.

- de la Torre, J. & Karelitz, T. (2009). Impact of diagnosticity on the adequacy of models for cognitive diagnosis under a linear attribute structure. Journal of Educational Measurement, 46, 450-469.
- de la Torre, J., & Song, H. (2009). Simultaneous estimation of overall and domain abilities: A higher-order IRT model approach. Applied Psychological Measurement, 33, 620-639.
- de la Torre, J. (2008). An empirically-based method of Q-matrix validation for the DINA model: Development and applications. Journal of Educational Measurement, 45, 343-362.
- de la Torre, J. (2008). Multidimensional scoring of abilities: The ordered polytomous response case. Applied Psychological Measurement, 32, 355-370.
- de la Torre, J., & Deng, W. (2008). Improving person fit assessment by correcting the ability estimate and its reference distribution. Journal of Educational Measurement, 45, 159-177.
- de la Torre, J., & Douglas, J. (2008). Model evaluation and selection in cognitive diagnosis: An analysis of fraction subtraction data. Psychometrika, 73, 595-624.
- de la Torre, J., Camilli, G., Vargas, S., & Vernon, R. F. (2007). Illustration of a multilevel model for meta-analysis. Measurement and Evaluation in Counseling and Development, 40, 169-180.
- de la Torre, J., Stark, S., & Chernyshenko, O. (2006). Markov chain Monte Carlo estimation of item parameters for the generalized graded unfolding model. Applied Psychological Measurement, 30, 216-232.
- de la Torre, J., & Patz, R. J. (2005). Making the most of what we have: A practical application of MCMC in test scoring. Journal of Educational and Behavioral Statistics, 30, 295-311.
- de la Torre, J., & Douglas, J. (2004). Higher-order latent trait models for cognitive diagnosis. Psychometrika, 69, 333-353.

#### **Selected Invited Presentations**

- de la Torre, J. (2011, December). A general framework for cognitive diagnosis modeling. Invited presentation at the Department of Psychology, Sun Yat-Sen University.
- de la Torre, J. (2011, September). Developing proportional reasoning assessment from cognitive diagnosis modeling: Opportunities and challenges. Invited presentation at the An Interdisciplinary Conference on Assessment in K-12 Mathematics: Collaborations Between Mathematics Education and Psychometrics, Atlanta, GA.

- de la Torre, J. (2011, August). Multi-unidimensional pairwise preference modeling: Some recent developments. Invited presentation at the Research and Development Department Seminar, Educational Testing Service.
- de la Torre, J. (2011, July). The G-DINA model as a general framework for cognitive diagnosis modeling. Invited presentation at the Annual Meeting of the Psychometric Society, Hong Kong, SAR China.
- de la Torre, J. (2011, June). Recent developments in cognitive diagnisis modeling. Invited presentation at the School of Psychology Colloquium, Beijing Normal University, Beijing, China.
- de la Torre, J. (2010, October). MCMC and its application to a complex psychometric model. Invited presentation at the Department of Psychology Colloquium, Universidad Autonoma de Madrid.
- de la Torre, J. (2009, October). Validation under the G-DINA framework. Invited presentation at the Research and Development Department Seminar, Educational Testing Service.
- de la Torre, J. (2009, October). A general framework for diagnostic modeling. Invited presentation at the Department of Psychology Colloquium, Universidad Autonoma de Madrid.
- de la Torre, J. (2009, September). Validation under the G-DINA framework. Invited presentation at the Quantitative Psychology Colloquium, University of Illinois at Urbana-Champaign.
- de la Torre, J. (2009, September). A general framework for diagnostic modeling. Invited presentation at the Department of Psychology Colloquium, University of Illinois at Urbana-Champaign.
- de la Torre, J. (2009, May). A general psychometric framework for cognitively diagnostic assessments. Invited presentation at the Hong Kong Institute of Education Colloquium. Hong Kong, SAR China.
- de la Torre, J. (2009, March). The generalized DINA model framework. Invited presentation at the Department of Development Colloquium, Teachers College, Columbia University.
- de la Torre, J. (2009, February). The generalized DINA model framework. Invited presentation at the Department of Measurement, Statistics, & Evaluation Colloquium, University of Maryland.
- de la Torre, J. (2008, December). New models for cognitive diagnosis. Invited presentation at the Psychometrics & Quantitative Psychology Colloquium, Department of Psychology, Fordham University.

- de la Torre, J. (2008, November). A general framework for estimating and testing cognitive diagnosis models. Invited presentation at the Annual Meeting of the Korean Society for Educational Evaluation, Seoul National University, Seoul, South Korea.
- de la Torre, J. (2008, November). Innovations in diagnostic modeling. Invited presentation at the Annual Meeting of the Korean Educational Research Association, Seoul, South Korea.
- de la Torre, J. (2008, November). State of the art latent variable models for cognitive diagnosis. Invited presentation at the School of Statistics Colloquium, University of the Philippines-Diliman, Quezon City, Philippines.
- de la Torre, J. (2008, April). A cognitive diagnosis model for cognitively-based multiplechoice options. Invited presentation at the Department of Educational Research Methodology, University of North Carolina at Greensboro.
- de la Torre, J. (2007, December). A cognitive diagnosis model for cognitively-based multiplechoice options. Invited presentation at the Department of Measurement, Statistics, & Evaluation, University of Maryland.
- de la Torre, J. (2007, November). A cognitive diagnosis model for cognitively-based multiplechoice options. Invited presentation at the Quantitative Research Seminar, Department of Psychology, Catholic University of Leuven, Belgium.
- de la Torre, J. (2007, October). A cognitive diagnosis model for cognitively-based multiplechoice options. Invited presentation at the Department of Methodology and Statistics Colloquium, Tilburg University, The Netherlands.
- de la Torre, J. (2006, December). Cognitive diagnosis modeling: Developments and applications. Invited presentation at the Department of Psychology Colloquium, University of the Philippines-Diliman, Quezon City, Philippines.
- de la Torre, J. (2006, October). Cognitive diagnosis modeling: Model developments and applications. Invited presentation at the Humboldt University Institute for Educational Progress Colloquium, Berlin, Germany.

#### **Selected Training Sessions/Workshops**

- de la Torre, J. (2011, December). Cognitive Diagnosis Modeling: A General Framework Approach. Training and Professional Development Workshop at Northeast Normal University, Changchun, China.
- de la Torre, J. (2011, July). Cognitive Diagnosis Modeling: A General Framework Approach. Training and Professional Development Workshop at the International Meeting of the Psychometric Society, Hong Kong, SAR China.

- de la Torre, J. (2011, July). Cognitive Diagnosis Modeling: A General Framework Approach. Continuing Professional Education Workshop for the Philippine Educational Measurement and Evaluation Association, Manila, Philippines.
- de la Torre, J. (2011, June). Advanced Topics in Cognitive Diagnosis Modeling. Training and Professional Development Workshop at National Tai Chung University, Tai Chung, Taiwan.
- de la Torre, J. (2010, November). A Short Course of Cognitive Diagnosis Modeling. Training and Professional Development Workshop at the Universidad Autonoma de Madrid, Spain.
- de la Torre, J. (2010, June). Diagnostic Modeling and Scoring. Training and Professional Development Workshop at National Tai Chung University, Tai Chung, Taiwan.
- de la Torre, J., Henson, R., & Templin, J. (2010, April). Practice of Skills Diagnosis with Latent Variable Models. Training and Professional Development Workshop at the Annual Meeting of National Council on Measurement in Education, Denver, CO.
- de la Torre, J., Henson, R., & Templin, J. (2010, April). Theory of Skills Diagnosis with Latent Variable Models. Training and Professional Development Workshop at the Annual Meeting of National Council on Measurement in Education, Denver, CO.
- de la Torre, J. (2009, October). Skills Diagnosis using the G-DINA Model Framework. Training and Professional Development Workshop at Universidad Complutense de Madrid, Madrid, Spain.
- de la Torre, J., Henson, R., & Templin, J. (2009, April). Skills Diagnosis with Latent Variable Models. Training and Professional Development Workshop at the Annual Meeting of National Council on Measurement in Education, San Diego, CA.

#### **Teaching Experience**

- Instructor, Regression Analysis, Department of Educational Psychology, Rutgers University (Fall 2005, Fall 2008, Fall 2009)
- Instructor, Statistical Methods II, Department of Educational Psychology, Rutgers University (Spring 2008 – regular and online, Spring 2009 – online, Spring 2010)
- Instructor, Item Response Theory, Department of Educational Psychology, Rutgers University (Spring 2005, Spring 2009, Spring 2011)
- Instructor, Statistical Methods in Education II, Department of Statistics, Rutgers University (Summer 2006, Summer 2005, Spring 2005, Fall 2004, Summer 2004, Spring 2004)

- Instructor, Statistical Methods in Education I, Department of Educational Psychology, Rutgers University (Fall 2003, Fall 2004)
- Instructor, Introduction to Statistics, Department of Psychology, University of Illinois at Urbana-Champaign (Summer 2002, Summer 1998)

#### **Work Experience**

Associate Professor, Center of Alcohol Studies, Rutgers University (July 1, 2010 - present)

Associate Professor, Educational Psychology, Rutgers University (July I, 2009 – present)

Assistant Professor, Educational Psychology, Rutgers University (September 2003 – June 2009)

Visiting Associate Professor, Departamento de Psicología Social y Metodología, Facultad de Psicología, Universidad Autonoma de Madrid (September – December 2010)

Visiting Assistant Professor, Department of Research and Methodology, University of Tilburg, The Netherlands (September – November 2007)

#### **Professional Services**

Associate Editor – Applied Psychological Measurement (2012–present)

Advisory Editor - Journal of Educational Measurement (2008–2014)

Editorial Board Member - The Educational Measurement and Evaluation Review (2011 present)

Consulting Editor – The Assessment Handbook (2011 – present)

American Education Research Association Division D Outstanding Quantitative Dissertation Award (Member, 2009 – 2011; Chair, 2011 – 2012).

Bradley Hanson Award for Contributions to Educational Measurement (Member, 2006 - 2009; Chair, 2007 - 2009)





### Needed: Criminal investigation in Elizabeth

Published: Monday, May 23, 2011, 5:00 AM Updated: Monday, May 23, 2011, 6:39 PM



Star-Ledger Editorial Board

Star-Ledger

Rafael Fajardo, former president of the Elizabeth School Board

be blamed on oil refineries along the Turnpike. It is from the ethical rot created by the city's Board of Education.

The foul odor in Elizabeth these days cannot

Board members in Elizabeth routinely solicit political donations from teachers and other school employees. They are using the district's 4,000 employees as their personal slush funds, building a heavy-handed political machine that is based on intimidation.

That is sleazy at a minimum. It becomes criminal if employees are coerced into giving money by the threat of punishment or the promise of reward. And that is exactly what employees of the district say is happening, as staff writer Ted Sherman reported in The Sunday Star-Ledger.

Several lawsuits making that charge have been quietly settled, with a convenient gag order attached. And several authoritative sources, including a former superintendent and a former principal, say that is precisely

how the board does its business.

"If you don't buy tickets, you are not promoted to jobs you may want," said Frank Cuesta, the former

principal, now a city councilman. "You are basically shut out of the system, no matter how competent you are."

These are serious charges that merit a criminal investigation by U.S. Attorney Paul Fishman, or Attorney General Paula Dow, or both offices working in tandem.

Their challenge will be to prove the coercion. A wink and nod are not enough. Investigators need to explicitly link the district's treatment of an employee with his or her response to the request for money.

It will come as no surprise if they find that smoking gun. Because judging by what we know of this board, its members have lost their ethical bearings entirely. The signs of this are familiar to anyone who follows New Jersey politics.

Nepotism is one symptom. Sherman found that at least 20 district employees are relatives of current or past board members.

The ringleader on this is Rafael Fajardo, a former board president who has six relatives on the payroll, including a sister who is a truant officer for preschool students, a job the state deemed pointless because preschoolers are not required to attend.

Soliciting money from firms that do business with the district is another classic symptom, and the Elizabeth board embraces that practice as well.

Fajardo won't talk about any of this, and neither will most current board members. That, too, is a sign.

Time to find out what these people are hiding. And for that, we need criminal investigators to do their work.

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## Senator Raymond J. Lesniak & Mayor J. Christian Bollwage

Invite you to a cocktail reception in honor of

## Councilman Frank Cuesta

For a successful year as President of the Elizabeth City Council

#### Host Committee:

Luis Rodriguez, Chairman

Mel Acosta Ralph Salermo
George Castro Felice Tanga
Angela Salazar Tony Teixeira

Wednesday, January 25, 2006

5:30p.m. - 8:30p.m.

The Red Parrot Cale 17 Broad St Elizabeth, NJ 07201

Suggested Donation: \$250

RSVP to Brenda at (908) 289-9007 (10AM - 8PM)

Pand for by the Election Fund of Frank Cuesta, 832 Bagley Avenue, Elizabeth, NJ 07208



## Senator Raymond J. Lesniak & Mayor J. Christian Bollwage

Invite you to a reception in honor of

### Councilman Frank J. Cuesta

#### Host committee

Angela Salazar, Chairperson

Mel Acosta Hiver Ambroise George Castro Janice De Avila

Vito A.Mazza, Esq Marcos Salermo Ralph Selermo Michael Santos

Thursday, February 5, 2009 5:30 PM to 8:30 PM

Doice Lounge 17 Broad Street Elizabeth, New Jersey Free valet parking Open Bar, Food, Music & Dancing

Suggested Donation: 9250
Please make checks payable to Election Fund of Frank J. Cuesta

Paid for by the Election Fund of Frank Cuesta, 832 Balley Avenue, Elizabeth, NJ 07208

# EXHIBIT J

FOX 436-5237

FRANK J. CUESTA 832 BAILEY AVENUE ELIZABETH, NJ 07208 Elzorro1953@yerizon.net (908) 352-9888 Home

September 11, 2007

#### Dear Students and Parents,

Ever since June 28, 2007 when the Elizabeth Board of Education involuntarily transferred me from the Upper and Lower Academies of Elizabeth High School to Hamilton Middle School. I have not stopped thinking about how much you motivated me to become a better administrator, a better educator and definitely a better human being. I have not stopped thinking about what we accomplished together in such a short time, and how we celebrated our successes with joy, appreciation and respect for each other. I have not stopped thinking how much I learned from your buoyancy, your optimism and creativity. I miss all of you so very much!

By now, most of you know that I was transferred to another school against my will, despite the support from students, parents, teachers and the community at large. What you probably don't know is that the Board also transferred my wife, Karen, involuntarily from School 12 despite her excellent performance there for more than 13 years. It is very important to me that I discuss briefly the circumstances surrounding our transfers.

Citizens of Elizabeth elect three Board members on April of each year. As a citizen, taxpayer and community activist I have a right under the First Amendment of the United States Constitution to vote for, campaign for and support any candidate that I choose. Essentially, I have the right to freedom of speech and freedom of association. This is a right that individuals enjoy in a democratic society such as ours and not in totalitarian regimes such as the ones in Cuba and China. This past April, 2007 I chose to endorse three candidates for the Board of Education but they lost the election to current members of the Board. Soon after this election I was transferred involuntarily and suffered a reduction in salary. My wife, who defended me publicly at the same Board meeting on June 28, 2007, was also transferred recently. I think you get the picture! I can tell you, however, that I will continue to express my opinions at public forums and Board meetings such as the one scheduled for Thursday, September 20, 2007 at 7:00 p.m. I will continue to express my opinions and exercise my rights under the Constitution because this is "the land of the free and the home of the brave" and I will not cower to bullies whoever they may be.

My dear students and parents, it saddens me deeply that I was not able to continue my tenure at the Academies. I had many goals and aspirations that were stifled by an arbitrary and capricious decision. However, I intend to continue fulfilling one of these goals: Elizabeth's Promise Scholarship Program. To those of you who are seniors this

THE STREET

year, I will make sure you get an application for our scholarship program so that you could become a recipient just like former Academy students Kelly, Stephanie, Eillyn, Amanda and Bruce to mention a few. Last school year, we awarded more than \$35,000 in scholarships at a ceremony that was held on June 2. This program will continue no matter where the Board assigns me. You deserve this support and even from a distance you motivate me and my committee to continue this worthy scholarship program.

Not a day goes by that I don't think of the Academy. I think about you with great affection and consideration as I experienced one of the most rewarding years of my

Sep 18 2007 9:48AM EBOE Upper Academy

(908) 436-5861

respect and understanding for each other. I miss the dress down days because I enjoyed rewarding you for your hard work and diligence. I miss the musical and dance programs; I miss the "impromptu talent shows at lunchtime" and of course, the few times that I challenged you to "Four Square". But most importantly, I miss our discussions to improve the school and our community. These were honest and profound discussions but they were also an expression of dreams and aspirations that we shared together. This no one can take away from us.

I hope to be able to see you at some school event in the near future. Please invite me! You may contact me via e-mail (Elzorro1953@verizon.net). We can continue the relationships we built because they were founded on trust and support for each other. I congratulate you on your past accomplishments and exhort you to continue working hard so that you can become the very best that you can be.

Thank you and God Bless each and every one of you.

Affectionately.

Frank J. Cuesta

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First House Director, Upper and Lower Academies